

United States Environmental Protection Agency

Region IV

POLLUTION REPORT

**Date:** Tuesday, July 17, 2007

**From:** Kenneth Rhame, OSC

**To:** Bob Bittinger, Region IV RRC  
Matt Taylor, US EPA Region 4  
Jim McGuire, US EPA Region IV  
Suzanne Rubini, US EPA Region 4

Anita Davis, US EPA Region 4  
Ted Walden, US EPA Region 4  
Miguel Bella, USCG

**Subject:** FieldcrestCannonPlant7  
400 North Boundary Street, SALISBURY, NC

<b>POLREP No.:</b>	1	<b>Site #:</b>	
<b>Reporting Period:</b>		<b>D.O. #:</b>	
<b>Start Date:</b>	7/16/2007	<b>Response Authority:</b>	CERCLA/OPA
<b>Mob Date:</b>	7/16/2007	<b>Response Type:</b>	Emergency
<b>Completion Date:</b>		<b>NPL Status:</b>	
<b>CERCLIS ID #:</b>		<b>Incident Category:</b>	Removal Action
<b>RCRIS ID #:</b>		<b>Contract #</b>	
<b>FPN#</b>		<b>Reimbursable Account #</b>	

**Site Description**

US EPA Region 4 received a report from the NRC reporting a oil spill (heating oil) at approximately 09:14 am on July 16, 2007 from an above ground storage tank (approximatley 15,000 gallon) that supplied a boiler room at the Fieldcrest Cannon Plant #7 facility located in Salisbury, Rowan County, NC. The spill is believed to have consisted of over 8,000 gallons of #6 heating oil which occurred on Thursday July 12,2007. The release is believed to have been caused by thieves accessing the property to steal copper wiring from the electrical and operational equipment. The thieves accessed the boiler room to steal copper and allegedly turned a valve or broke a valve causing the oil in the AST to be released.

On Thursday July 12, 2007 the Salisbury Wast Water Treatment Plant (WWTP)observed petroleum impacting the plant. The Salisbury WWTP reported the impact to the Salisbury Fire Department, after several hours of investigation it was determined that the source was the Fieldcrest Cannon Plant #7 facility, a abandoned cotton textile plant. The spill originated in the boiler room, approximately 2" of product was observed on the floor of the boiler room. The boiler room has a drain that leads to a oil-water separator. The oil-water separator was also observed as being full of heating oil, the oil-water separator is designed to separate the oil and water and to discharge the water to the WWTP containing the oil in the catch basin. The oil-water separator malfunctioned, was not designed to function with a catastrophic release. The location of the oil-water separator is adjacent to Tar Branch Creek, a tributary to Town Creek which is a tributary to the Yadkin River.

On Friday July 13, the WWTP plugged the line that discharged from the oil-water separator to the WWTP and hired Shamrock Environmental to clean some oil impacted areas within the WWTP. The Salisbury Fire Dept. continued to monitor the site to insure that the oil would remain contained to the boiler room and the oil-water separator.

On Sunday July 15, the Salisbury Fire Dept. observed oil leaching from the soil around the oil-water separator to

Tar Branch Creek and notified DENR. The Fire Dept. constructed two underflow dams and deployed absorbant boom in the creek for containment. The property manager of the Fieldcrest Cannon Plant 7 facility, Joel Smithgall was contacted by the Fire Dept. and DENR and was advised of the situation. Mr. Smithgall stated that he had the authority to make decisions on behalf of the owner FCS Urban Ministries but wanted some time to get some estimates from local contractors. DENR authorized the hiring of Shamrock Environmental to respond and to contain the oil at the Fieldcrest Cannon Plant 7 facility. Shamrock Env. recovered over 8,000 gallons of oil from the boiler room and oil-water separator.

On Monday July 16th, oil was still observed leaching from impacted soils along the bank of Tar Branch Creek in the vicinity of the oil-water separator, US EPA was notified by DENR at this time.

### **Current Activities**

07/16/2007 US EPA Region 4 conducted an emergency response and arrived on site at the Fieldcrest Cannon Plant 7 facility. OSC Rhame conducted a walk-thru of the facility with the Salisbury Fire Dept. and DENR. OSC Rhame observed several concerns at the facility that need to be addressed as a emergency response.

### **Planned Removal Actions**

Emergency Response Items:

1. On-going discharge of oil to Tar Branch Creek.
2. Between 3 and 4 feet of oil sludge still remains in the above ground storage tank that services the boiler room.
3. Several drums containing unknown material remain in different parts of the facility.
4. The facility is unsecure, there is evidence of trespassers accessing the facility and potentially being exposed to various hazards in relation to the oil, drums, pcb contaminated soils and possibly asbestos.

Other Response Issues:

1. While on site OSC Rhame observed a stockpile of contaminated soil that was not secure, when OSC Rhame inquired about the soil it was learned that approximately three weeks prior to this, the Salisbury Fire Dept had responded to the facility in regards to a transformer oil spill. The transformer oil spill was also caused by thieves accessing the property to steal copper from the transformers. The pcb concentration was reported by the property manager as being 320 parts per million. The soil was excavated and stockpiled but not disposed of. The soil is not secure and is exposed to the weather elements.
2. OSC Rhame also observed material that appeared to be asbestos which had been removed from piping laying in various parts of the plant that are being accessed by homeless individuals.

### **Next Steps**

OSC Rhame will have a conference call with US EPA Region 4 attorneys to discuss future steps.

### **Estimated Costs \***

	<b>Budgeted</b>	<b>Total To Date</b>	<b>Remaining</b>	<b>% Remaining</b>
<b>Extramural Costs</b>				
<b>Intramural Costs</b>				
<b>Total Site Costs</b>	\$0.00	\$0.00	\$0.00	0.00%

\* The above accounting of expenditures is an estimate based on figures known to the OSC at the time this report was written. The OSC does not necessarily receive specific figures on final payments made to any contractor(s). Other financial data which the OSC must rely upon may not be entirely up-to-date. The cost accounting provided in this report does not necessarily represent an exact monetary figure which the government may include in any claim for cost recovery.

[epaossc.net/FieldcrestCannonPlant7](http://epaossc.net/FieldcrestCannonPlant7)



United States Environmental Protection Agency

[profile](#)[bulletins](#)[images](#)[documents](#)[POLREPs](#)[contacts](#)[links](#)[logout](#)[All POLREPs for this site](#)

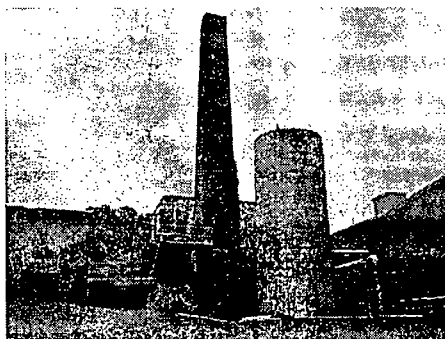
## FieldcrestCannonPlant7

### SALISBURY, NC - EPA Region IV

#### POLREP #2

[Printer Friendly](#)**On-Scene Coordinator - Kenneth Rhame**

71

**Emergency - Removal Action****Pollution Report (POLR)****Start Date: 7/16/2007**

### Site Description

US EPA Region 4 received a report from the NRC reporting a oil spill (oil) at approximately 09:14 am on July 16, 2007 from an above ground storage tank (approximately 15,000 gallon) that supplied a boiler room Fieldcrest Cannon Plant #7 facility located in Salisbury, Rowan County NC. The spill is believed to have consisted of over 8,000 gallons of # heating oil which occurred on Thursday July 12, 2007. The release is to have been caused by thieves accessing the property to steal copper from the electrical and operational equipment. The thieves accessed boiler room to steal copper and allegedly turned a valve or broke a valve causing the oil in the AST to be released.

On Thursday July 12, 2007 the Salisbury Wast Water Treatment Plant (WWTP) observed petroleum impact in plant. The Salisbury WWTP reported the impact to the Salisbury Fire Department, after several hours of investigation it was determined that the source was the Fieldcrest Cannon Plant #7 facility, a abandoned cotton textile plant. The spill originated in the boiler room, approximately 2" of product was observed on the floor of boiler room. The boiler room has a drain that leads to a oil-water separator. The oil-water separator was also observed as being full of heating oil, the oil-water separator is designed to separate the oil and water and to discharge the water to the WWTP containing the oil in the catch basin. The oil-water separator malfunctioned not designed to function with a catastrophic release. The location of the oil-water separator is adjacent to Tar Branch Creek, a tributary to Town Creek which is a tributary to the Yadkin River.

On Friday July 13, the WWTP plugged the line that discharged from the oil-water separator to the WWTP and Shamrock Environmental to clean some oil impacted areas within the WWTP. The Salisbury Fire Dept. continued to monitor the site to insure that the oil would remain contained to the boiler room and the oil-water separator.

On Sunday July 15, the Salisbury Fire Dept. observed oil leaching from the soil around the oil-water separator and notified DENR. The Fire Dept. constructed two underflow dams and deployed absorbent booms to the creek for containment. The property manager of the Fieldcrest Cannon Plant #7 facility, Joel Smithgall was contacted by the Fire Dept. and DENR and was advised of the situation. Mr. Smithgall stated that he had the authority to make decisions on behalf of the owner FCS Urban Ministries but wanted some time to get some estimates from local contractors. DENR authorized the hiring of Shamrock Environmental to respond and to contain the oil at the Fieldcrest Cannon Plant #7 facility. Shamrock Env. recovered over 8,000 gallons of oil from the boiler room and oil-water separator.

On Monday July 16th, oil was still observed leaching from impacted soils along the bank of Tar Branch Creek in the vicinity of the oil-water separator, US EPA was notified by DENR at this time.

### Current Activities

Meeting with Salisbury Fire Department to Discuss Site Conditions.

On 07/17/2007 US EPA OSC met with Salisbury Fire Department, the PRP's Contractor Triad Environmental Doug Thomas. Fire Department established a "Plan of Attack" in the event of structure fire at the site. Due to unstable flooring and potential for hazardous materials, the fire department will attack a fire (if one should occur) from the outside, they will not put firefighters inside any of the buildings at the site.

### Planned Removal Actions



10780536

7/17/2007



Planned Removal activities for the week of July 16th is to:

1. Secure Facility - Repair/Replace damaged fence, gates and locks.
2. Excavate oil saturated soils next to creek.
3. Stabilize above ground storage tank and associated plumbing.

### Next Steps

PRP is working on a Work Plan and will submit for review the week of 7/23/2007.

Ongoing Concerns:

1. Oil Seep to Creek
2. Drums
3. PCB contaminated soils
4. Tank/Piping Closure
5. Asbestos

### Key Issues

Negotiations On-Going

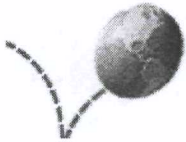
### Cost Information through 7/17/2007

	Budgeted	Total To Date	Remaining	% Rem
<b>Extramural Costs</b>				
<b>Intramural Costs</b>				
<b>Total Site Costs</b>	\$0.00	\$0.00	\$0.00	

The above accounting of expenditures is an estimate based on figures known to the OSC at the time this report was written. The OSC does not receive specific figures on final payments made to any contractor(s). Other financial data which the OSC must rely upon may not be entirely up-to-date. The cost accounting provided in this report does not necessarily represent an exact monetary figure which the government may include in any cost recovery.

---

[web sites](#) | [regional web sites](#) | [profile](#) | [bulletins](#) | [images](#) | [documents](#) | [POLREPs](#) | [contacts](#) | [links](#) |



Karen Singer/R4/USEPA/US  
05/12/2008 11:46 AM

To Rhelyn Finch/R4/USEPA/US@EPA, Jade  
Rutland/R4/USEPA/US@EPA

cc

bcc

Subject Re: Fieldcrest Cannon Plant #7, Salisbury, NC

History: This message has been replied to.

DELIBERATIVE PROCESS/DO NOT RELEASE

Ok. The next step is to let the OSCs know that the Administrative Records for these two removals are required and overdue, based on 40 CFR Sections 300.415(n)(2), 300.800, and 300.820. The appropriate documents, including copies of the decision document (the action memo), and any documents that formed the basis for the selection of the response, need to be provided to the records staff right away. Do you want to meet to discuss the next steps to let them know? I recommend email to them for quicker response and documentation of the request.

Karen

CONFIDENTIALITY NOTICE: This message is being sent by or on behalf of an attorney. It is intended exclusively for the individual(s) or entity(ies) to whom or to which it is addressed. This communication may contain information that is proprietary, privileged, or confidential or otherwise legally exempt from disclosure. If you are not the named addressee, you are not authorized to read, print, retain, copy, or disseminate this message or any part of it. If you have received this message in error, please notify the sender immediately by email and delete all copies of the message.

*Kenneth Rhame at AFC 404) 562-9126  
cell 919) 475-7397*



10780539



Karen Singer/R4/USEPA/US

05/12/2008 11:22 AM


To Rhelyn Finch/R4/USEPA/US@EPA

cc Jade Rutland/R4/USEPA/US@EPA

bcc

Subject Re: Fieldcrest Cannon Plant #7, Salisbury, NC

History:

 This message has been replied to.

Rhelyn,

Please check with the north records unit to see if there are any records for this removal in her records room. If not, we can formulate an email to send to the OSC because it turns out we do need a copy of the action memo and all other records that go into the Administrative Record. The spills Ron was talking about are those responded to under the Oil Spill Act. These were Superfund removals. Jade, once Rhelyn finds this out we can work out the email to both OSCs together.

Karen

CONFIDENTIALITY NOTICE: This message is being sent by or on behalf of an attorney. It is intended exclusively for the individual(s) or entity(ies) to whom or to which it is addressed. This communication may contain information that is proprietary, privileged, or confidential or otherwise legally exempt from disclosure. If you are not the named addressee, you are not authorized to read, print, retain, copy, or disseminate this message or any part of it. If you have received this message in error, please notify the sender immediately by email and delete all copies of the message.



10780540



Karen Singer/R4/USEPA/US  
05/12/2008 11:46 AM

To Rhelyn Finch/R4/USEPA/US@EPA, Jade  
Rutland/R4/USEPA/US@EPA

cc

bcc

Subject Re: Fieldcrest Cannon Plant #7, Salisbury, NC

History:

This message has been replied to.


**DELIBERATIVE PROCESS/DO NOT RELEASE**

Ok. The next step is to let the OSCs know that the Administrative Records for these two removals are required and overdue, based on 40 CFR Sections 300.415(n)(2), 300.800, and 300.820. The appropriate documents, including copies of the decision document ( the action memo), and any documents that formed the basis for the selection of the response, need to be provided to the records staff right away. Do you want to meet to discuss the next steps to let them know? I recommend email to them for quicker response and documentation of the request.

Karen

**CONFIDENTIALITY NOTICE:** This message is being sent by or on behalf of an attorney. It is intended exclusively for the individual(s) or entity(ies) to whom or to which it is addressed. This communication may contain information that is proprietary, privileged, or confidential or otherwise legally exempt from disclosure. If you are not the named addressee, you are not authorized to read, print, retain, copy, or disseminate this message or any part of it. If you have received this message in error, please notify the sender immediately by email and delete all copies of the message.

Kenneth  
Rhame/R4/USEPA/US  
05/13/2008 11:03 AM

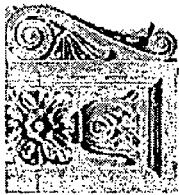
To Rhelyn Finch/R4/USEPA/US@EPA  
cc  
bcc  
Subject Re: Fieldcrest Cannon Plant 7 Site, Salisbury, NC 

There is no Action Memo,  
This was a PRP lead emergency response. There are Pol-Reps on the website. I am currently working a  
emergency response and have no cell coverage.  
I can communicate via email for the time being.

Sincerely,  
Kenneth B. Rhame  
Federal On-Scene Coordinator  
US EPA Region 4  
Emergency Response Branch  
NCSU Campus Box 8008, Rm. 2219 Jordan Hall Addition  
2800 Faucette Dr.  
Raleigh, NC 27695-8008  
Office: (919) 513-2516  
Cell: (919) 475-7397

E-mail: rhame.kenneth@epa.gov

Rhelyn Finch/R4/USEPA/US



Rhelyn Finch/R4/USEPA/US  
05/13/2008 09:13 AM

To Kenneth Rhame/R4/USEPA/US@EPA  
cc  
Subject Fieldcrest Cannon Plant 7 Site, Salisbury, NC

DELIBERATIVE PROCESS/DO NOT RELEASE

Ken,

Good morning. I'm sending a follow-up email concerning the voice mail message I left you yesterday. As I said in the message, the Administrative Records for the removal at the Fieldcrest Cannon Plant 7 Site in Salisbury, North Carolina, are required and overdue pursuant to 40 CFR Sections 300.415(n)(2), 300.800, and 300.820. If you could please get the documents to me (particularly the action memo and any documents that formed the basis for the selection of the response) I will make sure they are filed properly. If there is anything I can do to help expedite the process just let me know.

Thanks.

Rhelyn Finch  
Office of Environmental Accountability  
U.S. Environmental Protection Agency, Region 4  
61 Forsyth St., S.W.  
Atlanta, GA 30303  
(404) 562-9807  
(404) 562-9486 (fax)



10780541

**CONFIDENTIALITY NOTICE:** This message is being sent by or on behalf of an attorney. It is intended exclusively for the individual(s) or entity(ies) to whom or to which it is addressed. This communication may contain information that is proprietary, privileged, or confidential or otherwise legally exempt from disclosure. If you are not the named addressee, you are not authorized to read, print, retain, copy, or disseminate this message or any part of it. If you have received this message in error, please notify the sender immediately by email and delete all copies of the message.



Matt Taylor/R4/USEPA/US  
05/15/2008 04:43 PM

To Greg Armstrong/R4/USEPA/US@EPA  
cc Kenneth Rhame/R4/USEPA/US, Rhelyn  
Finch/R4/USEPA/US@EPA, MaryC  
Johnson/R4/USEPA/US@EPA  
bcc  
Subject Re: Fw: Fieldcrest / Cannon Plant #7, Salisbury, NC

Greg,

Let me touch base with Ken Rhame. This emergency response may have been conducted under the Oil Pollution Act and not CERCLA. If conducted under OPA, the site would not be entered into CERCLIS.

I'll check - matt

Matthew W. Taylor, Chief  
Emergency Response Section  
U.S. EPA, Region IV  
61 Forsyth Street  
Atlanta, GA 30303-8960  
(404) 562-8759  
Greg Armstrong/R4/USEPA/US



Greg  
Armstrong/R4/USEPA/US  
05/15/2008 04:27 PM

To Matt Taylor/R4/USEPA/US@EPA  
cc  
Subject Fw: Fieldcrest / Cannon Plant #7, Salisbury, NC

Matt,

We couldn't find any data input in CERCLIS for the Fieldcrest Site. Can you have the appropriate person enter the removal activities into CERCLIS. We will pull reports from CERCLIS quarterly to see if any voluntary removals without an enforcement instrument were completed. To the extent any oversight or monitoring activities were performed by EPA, we will send the PRP a demand letter. Most of these are fairly small dollar amounts, but the PRPs tend to pay with little question.

Thanks,

Greg,

----- Forwarded by Greg Armstrong/R4/USEPA/US on 05/15/2008 04:16 PM -----

MaryC  
Johnson/R4/USEPA/US  
05/15/2008 12:13 PM

To Tony Moore/R4/USEPA/US@EPA, Greg  
Armstrong/R4/USEPA/US@EPA  
cc Rhelyn Finch/R4/USEPA/US@EPA  
Subject Fieldcrest / Cannon Plant #7, Salisbury, NC  
Removal



10780542

DO NOT RELEASE  
ENFORCEMENT CONFIDENTIAL

Tony / Greg,

Forgive me, I think Tony is now covering removal cost recovery matters, but just in case I added Greg.

One of our new attorneys, Rhelyn Finch, has been assigned this Site, Fieldcrest, where the removal program performed oversight of a PRP removal action in July '07. (Karen Singer helped the OSC at the time of the removal and passed the case to Rhelyn.) There was no work agreement - the OSC says it was an emergency and the only document prepared was a final POLREP I believe (no AR etc.).

There are oversight costs - direct = \$4300 or so - but I don't believe that an EPM has been assigned etc.

So, my question is whether we (OEA) need to do anything with this matter, or should we just wait until an EPM has been assigned to consider pursuing the oversight costs ?

Thanks,  
Mary

Mary C. Johnson  
Senior Attorney  
US EPA, Region 4  
61 Forsyth Street S.W.  
Atlanta, GA 30303-8960  
Tel: (404) 562-9526  
Fax: (404) 562-9487  
johnson.maryc@epa.gov

Confidentiality Notice - This communication is being sent to you by an attorney and is intended only for the individual(s) or entity(s) to whom or to which it is addressed. This communication may contain information that is proprietary, privileged, or confidential or otherwise legally exempt from disclosure. If you are not the named addressee, you are not authorized to read, print, retain, copy or disseminate this message or any part of it. If you have received this message in error, please notify the sender immediately by email and delete all copies of this message.





Rhelyn Finch/R4/USEPA/US

06/05/2008 03:51 PM

To Rhelyn Finch/R4/USEPA/US@EPA

cc

bcc

Subject Re: Financial ability to pay JFS

Note to Self for record of phone call with Marie Jacq Jack:

Spoke with Marie Jacq this afternoon (6/5/08). She stated that the nature of her conversation with Mr. Smithgall of JFS Properties, Inc., was regarding JFS' ability to pay penalties (of approx. \$42k) under the Oil Pollution program. JFS has submitted an ATP claim and financial data (including non-profit status) and analysis is pending. See below.

Rhelyn Finch  
Office of Environmental Accountability  
U.S. Environmental Protection Agency, Region 4  
61 Forsyth St., S.W.  
Atlanta, GA 30303  
(404) 562-9807  
(404) 562-9486 (fax)

CONFIDENTIALITY NOTICE: This message is being sent by or on behalf of an attorney. It is intended exclusively for the individual(s) or entity(ies) to whom or to which it is addressed. This communication may contain information that is proprietary, privileged, or confidential or otherwise legally exempt from disclosure. If you are not the named addressee, you are not authorized to read, print, retain, copy, or disseminate this message or any part of it. If you have received this message in error, please notify the sender immediately by email and delete all copies of the message.

Jacq Jack/R4/USEPA/US



Jacq Jack/R4/USEPA/US

06/05/2008 03:25 PM

To Dwight Murray/R4/USEPA/US@EPA, Cathy Winokur/R4/USEPA/US@EPA, Redleaf-Durbin.Joan@epa.gov, Mccurry.Doug@epamail.epa.gov, Rhelyn Finch/R4/USEPA/US@EPA

cc

Subject Financial ability to pay JFS

Good afternoon all,

JFS submitted their financial documents and Sharon on the 13th floor is holding them until Dwight returns from annual leave. Dwight, if you could kindly let me know your review of these documents no later than June 12, I would appreciate it very much.

Jacq Marie Jack  
(404) 562-8480  
jack.jacq@epa.gov



10780543

Kenneth  
Rhame/R4/USEPA/US  
06/01/2008 04:18 PM

To Rhelyn Finch/R4/USEPA/US@EPA  
cc Jacq Jack/R4/USEPA/US@EPA  
bcc  
Subject Re: Fieldcrest Cannon Plant #7, Salisbury, NC

History: This message has been replied to

There was a meeting on the 29th that Oil Enforcement (Jacq Jack) had with Mr. Smithgall, the prp. She probably has other documents that you may want to look at?

Sincerely,  
Kenneth B. Rhame  
Federal On-Scene Coordinator  
US EPA Region 4  
Emergency Response Branch  
NCSU Campus Box 8008, Rm. 2219 Jordan Hall Addition  
2800 Faucette Dr.  
Raleigh, NC 27695-8008  
Office: (919) 513-2516  
Cell: (919) 475-7397

E-mail: rhame.kenneth@epa.gov

Rhelyn Finch/R4/USEPA/US

Rhelyn Finch /R4/USEPA/US  
05/01/2008 08:51 AM

To Kenneth Rhame/R4/USEPA/US@EPA  
cc  
Subject Fieldcrest Cannon Plant #7, Salisbury, NC

Ken,

I have just come on board at EPA this week and have been assigned the Fieldcrest Cannon Plant #7 (emergency removal) case you worked on last July with EPA attorney Karen Singer. I will be looking into recovery of the administrative costs from the PRP. Karen has provided with me all of her site files and I wanted to ask you whether you have additional files, perhaps already filed here in Atlanta on the 11th floor, and/or any polreps? Also, do you know whether an EPM has been assigned to the site? Any information you can provide would be helpful.  
Thanks,

Rhelyn Finch  
X 29807

CONFIDENTIALITY NOTICE: This message is being sent by or on behalf of an attorney. It is intended exclusively for the individual(s) or entity(ies) to whom or to which it is addressed. This communication may contain information that is proprietary, privileged, or confidential or otherwise legally exempt from disclosure. If you are not the named addressee, you are not authorized to read, print, retain, copy, or disseminate this message or any part of it. If you have received this message in error, please notify the sender immediately by email and delete all copies of the message.



Rhelyn Finch/R4/USEPA/US

08/06/2008 09:46 AM

To Rhelyn Finch/R4/USEPA/US@EPA

cc

bcc

Subject Fieldcrest Cannon Plant #7

ATTORNEY-CLIENT PRIVILEGED, ATTORNEY WORK PRODUCT, DO NOT RELEASE UNDER FOIA

**NOTE TO FILE (record of telephone conversation with Jacq Marie Jack , EPA Oil program ):**

Received an update on the status of civil penalties under OPA in reference to the Fieldcrest Cannon Plant #7 Site, Salisbury, NC, from Jacq Marie Jack.

Jacq Marie said that she had received financial information from FCS Urban Ministries and submitted them to Dwight Murray for ATP analysis. However, upon the advice of EPA attorney Joan Redleaf Durbin, the oil program assessed the OPA penalty of \$25,000 against JFS Properties, Inc., the property manager. JFS Properties conveyed the Site property to FCS Urban Ministries by "Warranty Deed of Gift" on 12/28/2006. The property was conveyed subject to title exceptions set forth in Exhibit "B" attached to the Warranty Deed. The exceptions in Exhibit B include "Matters revealed in a Phase I Environmental Site assessment done for Pillowtex Corporation's Plant 7 dated May 7, 2002, of which Donee has copy." (Exhibit B, item 14). "Donor [retained right]. . . to remove two metal storage tanks [from the premises.]" (Exhibit B, item 15). Presumably based on these exceptions to the warranty deed gift, Joan Durbin concluded that JFS Properties retained the environmental responsibilities at the Site and, therefore, was the proper party to assess the civil penalty against as the current property manager/operator under OPA. EPA's oil program is currently awaiting closure of the public comment period but Jacq Marie doesn't foresee any problem, i.e., JFS intends to pay the penalty and has plenty of money to do so.

Rhelyn Finch  
Assistant Regional Counsel  
Office of Environmental Accountability  
U.S. Environmental Protection Agency, Region 4  
61 Forsyth St., S.W.  
Atlanta, GA 30303  
(404) 562-9807  
(404) 562-9486 (fax)

CONFIDENTIALITY NOTICE: This message is being sent by or on behalf of an attorney. It is intended exclusively for the individual(s) or entity(ies) to whom or to which it is addressed. This communication may contain information that is proprietary, privileged, or confidential or otherwise legally exempt from disclosure. If you are not the named addressee, you are not authorized to read, print, retain, copy, or disseminate this message or any part of it. If you have received this message in error, please notify the sender immediately by email and delete all copies of the message.



10780544



Rhelyn Finch /R4/USEPA/US  
08/06/2008 09:12 AM

To Jacq Jack/R4/USEPA/US@EPA  
cc  
bcc  
Subject Re: Financial ability to pay JFS (Fieldcrest Cannon Plant #7 Site)

Jacq Marie,

Good morning. Just following up with you in reference to the Fieldcrest Cannon Site to ask if you learned anything about JFS's ability to pay. When the case came to me from Karen Singer (in early May) we had a Scorpios report that included approximately \$4,400 in oversight costs at the Site. At that time the Superfund program had not yet assigned an EPM and perhaps still has not. Do you know whether only civil penalties under OPA are being pursued? Just curious about the current status of the case.

Thanks.

Rhelyn

---

Rhelyn Finch  
Assistant Regional Counsel  
Office of Environmental Accountability  
U.S. Environmental Protection Agency, Region 4  
61 Forsyth St., S.W.  
Atlanta, GA 30303  
(404) 562-9807  
(404) 562-9486 (fax)

CONFIDENTIALITY NOTICE: This message is being sent by or on behalf of an attorney. It is intended exclusively for the individual(s) or entity(ies) to whom or to which it is addressed. This communication may contain information that is proprietary, privileged, or confidential or otherwise legally exempt from disclosure. If you are not the named addressee, you are not authorized to read, print, retain, copy, or disseminate this message or any part of it. If you have received this message in error, please notify the sender immediately by email and delete all copies of the message.

Jacq Jack/R4/USEPA/US



Jacq Jack/R4/USEPA/US  
06/05/2008 03:25 PM

To Dwight Murray/R4/USEPA/US@EPA, Cathy  
Winokur/R4/USEPA/US@EPA,  
Redleaf-Durbin.Joan@epa.gov,  
Mccurry.Doug@epamail.epa.gov, Rhelyn  
Finch/R4/USEPA/US@EPA  
cc  
Subject Financial ability to pay JFS

Good afternoon all,

JFS submitted their financial documents and Sharon on the 13th floor is holding them until Dwight returns from annual leave. Dwight, if you could kindly let me know your review of these documents no later than June 12, I would appreciate it very much.

Jacq Marie Jack  
(404) 562-8480  
jack.jacq@epa.gov



Rhelyn Finch/R4/USEPA/US

08/06/2008 10:01 AM

To Greg Armstrong/R4/USEPA/US@EPA

cc Matt Taylor/R4/USEPA/US@EPA

bcc

Subject Fieldcrest Cannon Plant #7 Site

ATTORNEY-CLIENT PRIVILEGED, DO NOT RELEASE UNDER FOIA

FYI--

I just received an update on the status of civil penalties under OPA in reference to the Fieldcrest Cannon Plant #7 Site, Salisbury, NC, from Jacq Marie Jack.

Jacq Marie said that she had received financial information from FCS Urban Ministries and submitted them to Dwight Murray for ATP analysis. However, upon the advice of EPA attorney Joan Redleaf Durbin, the oil program assessed the OPA penalty of \$25,000 against JFS Properties, Inc. JFS Properties conveyed the Site property to FCS Urban Ministries by "Warranty Deed of Gift" on 12/28/2006. The property was conveyed subject to title exceptions enumerated in an Exhibit attached to the Warranty Deed. Jacq Marie said that, presumably, the title exceptions led Joan to conclude that JFS Properties was the proper party to assess the penalties against under OPA as the current property manager/operator because JFS had, in effect, retained environmental responsibilities for the property it gifted over to FCS Urban Ministries. EPA's oil program is currently awaiting closure of the public comment period, but Jacq Marie doesn't foresee any problem, i.e., JFS did not dispute EPA's conclusion that they were the responsible party, JFS intends to pay the penalty and has plenty of money to do so.

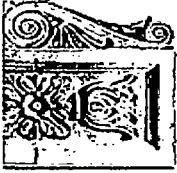
---

Rhelyn Finch  
Assistant Regional Counsel  
Office of Environmental Accountability  
U.S. Environmental Protection Agency, Region 4  
61 Forsyth St., S.W.  
Atlanta, GA 30303  
(404) 562-9807  
(404) 562-9486 (fax)

CONFIDENTIALITY NOTICE: This message is being sent by or on behalf of an attorney. It is intended exclusively for the individual(s) or entity(ies) to whom or to which it is addressed. This communication may contain information that is proprietary, privileged, or confidential or otherwise legally exempt from disclosure. If you are not the named addressee, you are not authorized to read, print, retain, copy, or disseminate this message or any part of it. If you have received this message in error, please notify the sender immediately by email and delete all copies of the message.



10780545



Rhelyn Finch /R4/USEPA/US

08/06/2008 09:20 AM

To Greg Armstrong/R4/USEPA/US@EPA

cc Matt Taylor/R4/USEPA/US@EPA

bcc

Subject Re: Fw: Fieldcrest / Cannon Plant #7, Salisbury, NC

Greg,

Good morning. I just wanted to follow up with you regarding the status of the Fieldcrest Site, in particular whether a demand letter was sent for the oversight costs. I understand Jacq Marie Jack may be pursuing civil penalties under OPA as well and has submitted financial information from the PRP (JFS) to Dwight Murray for ATP analysis. Please let me know if I can be of any assistance.

Thanks,

Rhelyn

---

Rhelyn Finch  
Assistant Regional Counsel  
Office of Environmental Accountability  
U.S. Environmental Protection Agency, Region 4  
61 Forsyth St., S.W.  
Atlanta, GA 30303  
(404) 562-9807  
(404) 562-9486 (fax)

CONFIDENTIALITY NOTICE: This message is being sent by or on behalf of an attorney. It is intended exclusively for the individual(s) or entity(ies) to whom or to which it is addressed. This communication may contain information that is proprietary, privileged, or confidential or otherwise legally exempt from disclosure. If you are not the named addressee, you are not authorized to read, print, retain, copy, or disseminate this message or any part of it. If you have received this message in error, please notify the sender immediately by email and delete all copies of the message.

Matt Taylor/R4/USEPA/US



Matt Taylor /R4/USEPA/US

05/15/2008 04:43 PM

To Greg Armstrong/R4/USEPA/US@EPA

cc Kenneth Rhame/R4/USEPA/US, Rhelyn  
Finch/R4/USEPA/US@EPA, MaryC  
Johnson/R4/USEPA/US@EPA

Subject Re: Fw: Fieldcrest / Cannon Plant #7, Salisbury, NC

Greg,

Let me touch base with Ken Rhame. This emergency response may have been conducted under the Oil Pollution Act and not CERCLA. If conducted under OPA, the site would not be entered into CERCLIS.

I'll check - matt

Matthew W. Taylor, Chief  
Emergency Response Section  
U.S. EPA, Region IV  
61 Forsyth Street  
Atlanta, GA 30303-8960  
(404) 562-8759  
Greg Armstrong/R4/USEPA/US



Greg  
Armstrong/R4/USEPA/US  
05/15/2008 04:27 PM

To Matt Taylor/R4/USEPA/US@EPA  
cc  
Subject Fw: Fieldcrest / Cannon Plant #7, Salisbury, NC

Matt,

We couldn't find any data input in CERCLIS for the Fieldcrest Site. Can you have the appropriate person enter the removal activities into CERCLIS. We will pull reports from CERCLIS quarterly to see if any voluntary removals without an enforcement instrument were completed. To the extent any oversight or monitoring activities were performed by EPA, we will send the PRP a demand letter. Most of these are fairly small dollar amounts, but the PRPs tend to pay with little question.

Thanks,

Greg,

----- Forwarded by Greg Armstrong/R4/USEPA/US on 05/15/2008 04:16 PM -----

MaryC  
Johnson/R4/USEPA/US  
05/15/2008 12:13 PM

To Tony Moore/R4/USEPA/US@EPA, Greg  
Armstrong/R4/USEPA/US@EPA  
cc Rhelyn Finch/R4/USEPA/US@EPA  
Subject Fieldcrest / Cannon Plant #7, Salisbury, NC  
Removal

DO NOT RELEASE  
ENFORCEMENT CONFIDENTIAL

Tony / Greg,

Forgive me, I think Tony is now covering removal cost recovery matters, but just in case I added Greg.

One of our new attorneys, Rhelyn Finch, has been assigned this Site, Fieldcrest, where the removal program performed oversight of a PRP removal action in July '07. (Karen Singer helped the OSC at the time of the removal and passed the case to Rhelyn.) There was no work agreement - the OSC says it was an emergency and the only document prepared was a final POLREP I believe (no AR etc.).

There are oversight costs - direct = \$4300 or so - but I don't believe that an EPM has been assigned etc.

So, my question is whether we (OEA) need to do anything with this matter, or should we just wait until an



EPM has been assigned to consider pursuing the oversight costs ?

Thanks,  
Mary

Mary C. Johnson  
Senior Attorney  
US EPA, Region 4  
61 Forsyth Street S.W.  
Atlanta, GA 30303-8960  
Tel: (404) 562-9526  
Fax: (404) 562-9487  
johnson.maryc@epa.gov

*Confidentiality Notice - This communication is being sent to you by an attorney and is intended only for the individual(s) or entity(s) to whom or to which it is addressed. This communication may contain information that is proprietary, privileged, or confidential or otherwise legally exempt from disclosure. If you are not the named addressee, you are not authorized to read, print, retain, copy or disseminate this message or any part of it. If you have received this message in error, please notify the sender immediately by email and delete all copies of this message.*



Karen Singer/R4/USEPA/US

07/18/2007 05:48 PM

To Kenneth Rhame/R4/USEPA/US@EPA, Wilda  
Cobb/R4/USEPA/US@EPA

cc

bcc Karen Singer/R4/USEPA/US

Subject First Draft AOC for Fieldcrest Cannon Plant 7

ATTORNEY-CLIENT PRIVILEGE/DELIBERATIVE PROCESS/DO NOT RELEASE

Ken and Wilda,

Here is the attached first draft. I've just included the charity as the Respondent at this point but, as we discussed, we can add JFS Properties. It is based on the model and I also compared it with a time-critical removal AOC Lucia did recently. It is very long with lots of holes. Ken, we can discuss this either tonight if you feel like it (I should be home and available after 8:15) or tomorrow morning after we try to reach Joel Smithgall.

In the meantime, I'll check with Site Assessment about whether the property is already on someone's radar screen.

Karen



RemovalAOC FieldcrestCannon7july1707.wpd

CONFIDENTIALITY NOTICE: This message is being sent by or on behalf of an attorney. It is intended exclusively for the individual(s) or entity(ies) to whom or to which it is addressed. This communication may contain information that is proprietary, privileged, or confidential or otherwise legally exempt from disclosure. If you are not the named addressee, you are not authorized to read, print, retain, copy, or disseminate this message or any part of it. If you have received this message in error, please notify the sender immediately by email and delete all copies of the message.



10780546

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 4

Draft 7/18/07

IN THE MATTER OF:  
Fieldcrest Cannon Plant 7  
Salisbury, Rowan County, North Carolina

ADMINISTRATIVE SETTLEMENT  
AGREEMENT AND ORDER ON  
CONSENT FOR REMOVAL ACTION

FCS Urban Ministries, Inc.  
Respondent

U.S. EPA Region 4  
CERCLA Docket No. \_\_\_\_\_

Proceeding Under Sections 104, 106(a), 107  
and 122 of the Comprehensive  
Environmental Response, Compensation,  
and Liability Act, as amended, 42 U.S.C. §§  
9604, 9606(a), 9607 and 9622

## **[TABLE OF CONTENTS]**

I.	JURISDICTION AND GENERAL PROVISIONS .....	3
II.	PARTIES BOUND .....	4
III.	DEFINITIONS .....	4
IV.	FINDINGS OF FACT .....	7
V.	CONCLUSIONS OF LAW AND DETERMINATIONS .....	7
VI.	SETTLEMENT AGREEMENT AND ORDER .....	8
VII.	DESIGNATION OF CONTRACTOR, PROJECT COORDINATOR, AND ON-SCENE COORDINATOR .....	9
VIII.	WORK TO BE PERFORMED .....	10
IX.	SITE ACCESS .....	13
X.	ACCESS TO INFORMATION .....	14
XI.	RECORD RETENTION .....	15
XII.	COMPLIANCE WITH OTHER LAWS .....	16
XIII.	EMERGENCY RESPONSE AND NOTIFICATION OF RELEASES .....	16
XIV.	AUTHORITY OF ON-SCENE COORDINATOR .....	17
XV.	PAYMENT OF RESPONSE COSTS .....	17
[XVI.]	[DISPUTE RESOLUTION] .....	20
XVII.	FORCE MAJEURE .....	20
XVIII.	STIPULATED PENALTIES .....	21
XIX.	COVENANT NOT TO SUE BY EPA .....	23
XX.	RESERVATIONS OF RIGHTS BY EPA .....	24
XXI.	COVENANT NOT TO SUE BY RESPONDENTS .....	25
XXII.	OTHER CLAIMS .....	27
XXIII.	CONTRIBUTION .....	28
XXIV.	INDEMNIFICATION .....	29
XXV.	INSURANCE .....	29
XXVI.	FINANCIAL ASSURANCE .....	30
XXVII.	MODIFICATIONS .....	32
[XXVIII.]	[ADDITIONAL REMOVAL ACTIONS] .....	32
XXIX.	NOTICE OF COMPLETION OF WORK .....	32
[XXX.]	[PUBLIC COMMENT] .....	33
[____.]	[ATTORNEY GENERAL AUTHORITY] .....	33
XXXI.	INTEGRATION/APPENDICES .....	33
XXXII.	EFFECTIVE DATE .....	34

**[NOTE: Appendices may also be listed in this Table of Contents.]**

## **I. JURISDICTION AND GENERAL PROVISIONS**

1. This Administrative Settlement Agreement and Order on Consent ("Settlement Agreement") is entered into voluntarily by the United States Environmental Protection Agency ("EPA") and FCS Urban Ministries, Inc. ("Respondent"). This Settlement Agreement provides for the performance of a removal action by Respondent and the reimbursement of certain response costs incurred by the United States at or in connection with the "Fieldcrest Cannon Plant 7 Site" (the "Site") generally located at 400 North Boundary Street in Salisbury, Rowan County, North Carolina.

2. This Settlement Agreement is issued under the authority vested in the President of the United States by Sections 104, 106(a), 107 and 122 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. §§ 9604, 9606(a), 9607 and 9622, as amended ("CERCLA").

3. EPA has notified the State of North Carolina (the "State") of this action pursuant to Section 106(a) of CERCLA, 42 U.S.C. § 9606(a).

4. EPA and Respondent recognize that this Settlement Agreement has been negotiated in good faith and that the actions undertaken by Respondent in accordance with this Settlement Agreement does not constitute an admission of any liability. Respondent does not admit, and retains the right to controvert in any subsequent proceedings other than proceedings to implement or enforce this Settlement Agreement, the validity of the findings of facts, conclusions of law, and determinations in Sections IV and V of this Settlement Agreement. Respondent agrees to comply with and be bound by the terms of this Settlement Agreement and further agrees that it will not contest the basis or validity of this Settlement Agreement or its terms.

## **II. PARTIES BOUND**

5. This Settlement Agreement applies to and is binding upon EPA and upon Respondent and its successors and assigns. Any change in ownership or corporate status of a Respondent including, but not limited to, any transfer of assets or real or personal property shall not alter such Respondent's responsibilities under this Settlement Agreement.

6. Respondents are jointly and severally liable for carrying out all activities required by this Settlement Agreement. (Will add JFS Properties, Inc. to this AOC.)

7. Respondent shall ensure that its contractors, subcontractors, and representatives receive a copy of this Settlement Agreement and comply with this Settlement Agreement. Respondent shall be responsible for any noncompliance with this Settlement Agreement.

## **III. DEFINITIONS**

8. Unless otherwise expressly provided in this Settlement Agreement, terms used in this Settlement Agreement which are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to them in CERCLA or in such regulations. Whenever terms listed below are used in this Settlement Agreement or in the appendices attached hereto and incorporated hereunder, the following definitions shall apply:

a. "Action Memorandum" shall mean the EPA Action Memorandum relating to the Site, signed on \_\_\_\_\_, by the Regional Administrator, EPA Region 4, or his/her delegate, and all attachments thereto. The Action Memorandum is attached as Appendix \_\_\_\_\_.

b. "CERCLA" shall mean the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. §§ 9601, *et seq.*

c. "Day" shall mean a calendar day. In computing any period of time under this Settlement Agreement, where the last day would fall on a Saturday, Sunday, or Federal holiday, the period shall run until the close of business of the next working day.

d. "Effective Date" shall be the effective date of this Settlement Agreement as provided in Section XXXII.

e. "EPA" shall mean the United States Environmental Protection Agency and any successor departments or agencies of the United States.

f. "North Carolina DENR" shall mean the North Carolina Department of Environment and Natural Resources and any successor departments or agencies of the State.

g. "Future Response Costs" shall mean all costs, including, but not limited to, direct and indirect costs, that the United States incurs in reviewing or developing plans, reports and other items pursuant to this Settlement Agreement, verifying the Work, or otherwise implementing, overseeing, or enforcing this Settlement Agreement, including but not limited to, payroll costs, contractor costs, travel costs, laboratory costs, the costs incurred pursuant to Paragraph 23 (costs and attorneys fees and any monies paid to secure access, including the amount of just compensation), Paragraph 33 (emergency response), and Paragraph 59 (work takeover)."

h. "Interest" shall mean interest at the rate specified for interest on investments of the EPA Hazardous Substance Superfund established by 26 U.S.C. § 9507, compounded annually on October 1 of each year, in accordance with 42 U.S.C. § 9607(a). The applicable rate of interest shall be the rate in effect at the time the interest accrues. The rate of interest is subject to change on October 1 of each year.

i. "National Contingency Plan" or "NCP" shall mean the National Oil and Hazardous Substances Pollution Contingency Plan promulgated pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, codified at 40 C.F.R. Part 300, and any amendments thereto.

j. "Settlement Agreement" shall mean this Administrative Settlement Agreement and Order on Consent and all appendices attached hereto (listed in Section XXXI). In the event of conflict between this Settlement Agreement and any appendix, this Settlement Agreement shall control.

k. "Paragraph" shall mean a portion of this Settlement Agreement identified by an Arabic numeral.

l. "Parties" shall mean EPA and Respondent.

m. "Past Response Costs" shall mean all costs, including, but not limited to, direct and indirect costs, that the United States paid at or in connection with the Site through [insert date of most recent cost update], plus Interest on all such costs through such date.]

n. "RCRA" shall mean the Solid Waste Disposal Act, as amended, 42 U.S.C. §§ 6901, *et seq.* (also known as the Resource Conservation and Recovery Act).

o. "Respondent" shall mean FSC Urban Ministries, Inc.

p. "Section" shall mean a portion of this Settlement Agreement identified by a Roman numeral.

q. "Site" or "Facility" shall mean the Fieldcrest Cannon Plant 7 Superfund Site, encompassing approximately 12 acres, located at around 400 North Boundary Street, Salisbury, Rowan County, North Carolina, and depicted generally on the map attached as Appendix 12.

r. "State" shall mean the State of North Carolina.

s. "Statement of Work" or "SOW" shall mean the statement of work for implementation of the removal action, as set forth in Appendix 13 to this Settlement Agreement, and any modifications made thereto in accordance with this Settlement Agreement. (Do you need this in an emergency removal or can the Respondents just follow your scope of work?)

t. "Waste Material" shall mean 1) any "hazardous substance" under Section 101(14) of CERCLA, 42 U.S.C. § 9601(14); 2) any pollutant or contaminant under Section 101(33) of CERCLA, 42 U.S.C. § 9601(33); 3) any "solid waste" under Section 1004(27) of RCRA, 42 U.S.C. § 6903(27); and 4) any hazardous substance as defined in Section 130A-310 of the North Carolina Inactive Hazardous Sites Response Act. (get official cite)

u. "Work" shall mean all activities Respondents are required to perform under this Settlement Agreement.

#### **IV. FINDINGS OF FACT**

9. The Site is an abandoned textile mill located at about 400 North Boundary Street, in Salisbury, Rowan County, North Carolina.

10. Respondent FSC Urban Ministries, Inc., a nonprofit corporation, is the current owner of the Site.

11. On Thursday, July 12, 2007, staff members at the Salisbury Waste Water Treatment Plant (WWTP) in Salisbury, North Carolina observed petroleum impacting the plant and reported the release to the Salisbury Fire Department ("Fire Department").

12. The Fire Department investigated the spill and concluded that the source of the oil release was the Fieldcrest Cannon Plant 7, where about two (2) inches of oil were observed on the floor of the facility's boiler room.

13. The boiler room contains a drain leading to an oil-water separator, located adjacent to the Tar Branch Creek, a tributary to Town Creek, which flows into the Yadkin River.

14. The Fire Department observed that the oil separator, which was designed to separate the oil and water and discharge the water to the WWTP, was full of heating oil.

15. On Friday, July 13, 2007, WWTP staff members plugged the line that discharged from the oil-water separator to the WWTP and hired Shamrock Environmental Company to clean some oil-impacted areas within the WWTP.

16. The Fire Department continued to monitor the Site to ensure that the oil in the boiler room and the oil-water separator was contained. On Sunday, July 15, 2007, Fire Department personnel observed oil leaching from the soil around the oil-water separator and notified North Carolina's Department of Environmental and Natural Resources (DENR). In addition, they constructed two (2) underflow dams and deployed absorbant boom in the creek to contain the oil spill.

17. On DATE, DENR and the Fire Department contacted Joel Smithgall, identified as the Fieldcrest Cannon Plant 7 property manager, to advise him of the situation.

18. Mr. Smithgall said that he was authorized to make decisions on behalf of Site owner FCS Urban Ministries, Inc., but wanted time to get some estimates from local contractors.



18. DENR subsequently authorized the hiring of Shamrock Environmental to respond to the oil spill. Shamrock recovered more than 8,000 gallons of oil from the boiler room and oil-water separator.

19. On Monday, July 16, 2007, when oil was still observed leaching from the impacted soils along the bank of the Tar Branch Creek, the vicinity of the oil-water separator, DENR contacted the National Response Center (NRC) to report that approximately 8,000 gallons of Number 6 heating oil spilled from an above-ground storage tank that supplied the boiler room at the facility.

20. In response to the call to the NRC, EPA Region 4 immediately initiated an emergency response action, dispatching On-Scene Coordinator (OSC) Kenneth Rhame.

21. OSC Rhame arrived at the Site the same day to conduct a walk through, accompanied by members of the Fire Department and DENR. He observed:

- a. Ongoing oil discharge to Tar Branch Creek;
- b. Between three (3) and four (4) feet of oil sludge in the above-ground storage tank that services the boiler room;
- c. Several drums of unknown material in different parts of the facility;
- d. Material that appeared to be asbestos removed from piping in various parts of the plant;
- e. An unsecured stockpile of PCB-contaminated soil which, according to the Fire Department, was excavated and stockpiled after a transformer oil spill; and
- f. Evidence of trespassers, including homeless people, accessing the unsecured facility.

22. On Tuesday, July 17, 2007, OSC Rhame met with the Fire Department and the contractor hired by Mr. Smithgall, Triad Environmental what??? What Doug Thomas ???

**[NOTE: Because Findings of Fact are site-specific, no model language is provided. Facts should be presented concisely, accurately, and logically. Regions should include a discussion of the following points: identification of Respondents; site location and description; site history and operations; site ownership; enforcement history; general categories of Respondents' liability; past EPA and/or State activities and investigations; and conditions and data showing hazardous substances are present and releases or threats of releases exist. The Settlement Agreement need not contain a finding of endangerment if such a finding has been properly made and documented in an Action Memorandum (or Action Memorandum/Enforcement) (hereinafter referred to as an "Action Memorandum/Enforcement") in accordance with the "Superfund Removal Procedures Action Memorandum Guidance" (OSWER Directive No. 9360.3-01, December 1990). If such a finding has not been made in an Action Memorandum/Enforcement, this Section should include data showing that the releases or threats of releases may present an imminent and substantial endangerment, *e.g.*, exposure routes, risk assessment, affected populations, environmental harm, potential for fire or explosion, or other dangers, and should be supported by an administrative record. If such a finding has been made in an Action Memorandum/Enforcement (and is not being made in the Settlement Agreement as well), the date of the signing of the Action Memorandum/Enforcement should be included as a finding, and the Action Memorandum/Enforcement should be attached and incorporated by reference into the Settlement Agreement.]**

## **V. CONCLUSIONS OF LAW AND DETERMINATIONS**

23. Based on the Findings of Fact set forth above, and the Administrative Record supporting this removal action, EPA has determined that:

a. The Fieldcrest Cannon Plant 7 Site is a "facility" as defined by Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

b. The contamination found at the Site, as identified in the Findings of Fact above, includes hazardous substances, as defined by Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

c. The Respondent is a "person," as defined by Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

d. The Respondent is a responsible party under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), and is jointly and severally liable for performance of response action and for response costs incurred and to be incurred at the Site.

i. Respondent PCS Urban Ministries, Inc. is the current owner of the facility, as defined by Section 101(20) of CERCLA, 42 U.S.C. § 9601(20), and within the meaning of Section 107(a)(1) of CERCLA, 42 U.S.C. § 9607(a)(1).

e. The conditions described in Paragraphs 11- 16, 19, and 21 of the Findings of Fact above constitute an actual or threatened of "release" of a hazardous substance from the facility as defined by Section 101(22) of CERCLA, 42 U.S.C. § 9601(22).

f. The removal action required by this Settlement Agreement is necessary to protect the public health, welfare, or the environment and, if carried out in compliance with the terms of this Settlement Agreement, will be consistent with the NCP, as provided in Section 300.700(c)(3)(ii) of the NCP.

## **VI. SETTLEMENT AGREEMENT AND ORDER**

Based upon the foregoing Findings of Fact, Conclusions of Law, Determinations, and the Administrative Record for this Site, it is hereby Ordered and Agreed that Respondent shall comply with all provisions of this Settlement Agreement, including, but not limited to, all attachments to this Settlement Agreement and all documents incorporated by reference into this Settlement Agreement.

## **VII. DESIGNATION OF CONTRACTOR, PROJECT COORDINATOR, AND ON-SCENE COORDINATOR**

24. Respondent shall retain one (1) or more contractors to perform the Work and shall notify EPA of the name(s) and qualifications of such contractor(s) within five (5) days of the Effective Date. Respondent shall also notify EPA of the name(s) and qualification(s) of any other contractor(s) or subcontractor(s) retained to perform the Work at least five (5) days prior to commencement of such Work. EPA retains the right to disapprove of any or all of the contractors and/or subcontractors retained by Respondents. If EPA disapproves of a selected contractor, Respondent shall retain a different contractor and shall notify EPA of that contractor's name and qualifications within five (5) days of EPA's disapproval. **[NOTE: Unless the removal work is being performed under emergency circumstances or is non-complex, the proposed contractor must demonstrate compliance with ANSI/ASQC E-4-1994, "Specifications and Guidelines for Quality Systems for Environmental Data Collection and Environmental Technology Programs" (American National Standard, January 5, 1995), by submitting a copy of the proposed contractor's Quality Management Plan ("QMP"). The QMP should be prepared in accordance with "EPA Requirements for Quality Management Plans (QA/R-2)" (EPA/240/B0-1/002), or equivalent documentation as required by EPA. Any decision not to require submission of the contractor's QMP should be documented in a memorandum from the OSC and Regional QA personnel to the Site file.]**

25. Within five (5) days after the Effective Date, Respondent shall designate a Project Coordinator who shall be responsible for administration of all actions by Respondent required by this Settlement Agreement and shall submit to EPA the designated Project Coordinator's name, address, telephone number, and qualifications. To the greatest extent possible, the Project Coordinator shall be present on Site or readily available during Site work. EPA retains the right to disapprove of the designated Project Coordinator. If EPA disapproves of the designated Project Coordinator, Respondent shall retain a different Project Coordinator and shall notify EPA of that person's name, address, telephone number, and qualifications within ?? days following EPA's disapproval. Receipt by Respondent's Project Coordinator of any notice or communication from EPA relating to this Settlement Agreement shall constitute receipt by the Respondent.

26. EPA has designated Kenneth Rhame, of the Emergency Response and Removal Branch, Region 4, as its OSC. Except as otherwise provided in this Settlement Agreement, Respondent shall direct all submissions required by this Settlement Agreement to the OSC at ADDRESS???. **[NOTE: Regions may specify method of delivery, e.g., by certified mail, express mail, or other delivery method.]**

27. EPA and Respondent shall have the right, subject to Paragraph 11, to change their respective designated OSC or Project Coordinator. Respondent shall notify EPA five (5) days before such a change is made. The initial notification may be made orally, but shall be promptly followed by a written notice.

### **VIII. WORK TO BE PERFORMED**

28. Respondent shall perform, at a minimum, the following removal activities described below.

- a. Develop and implement a Site Health and Safety Plan, including Site Emergency Contingency Plan;
- b. Secure Facility, repair and/or replace damaged fencing, gates and locks to prevent trespassers from entering property;
- c. Remove and properly dispose of oil-impacted soils between the creek and oil-water separator that are seeping into Tar Branch Creek, the tributary to town Creek;
- d. Properly close out tanks no longer in use in compliance with the Spill Prevention, Control and Countermeasures (SPCC) closure regulation;
- e. Clean oil-water separator and piping to prevent residual discharge;
- f. Secure, characterize and properly dispose of all containers on the Site;
- g. Stabilize, characterize and properly dispose of contaminated soils on the Site;
- h. Conduct access agreement activities in order to obtain all necessary Site access agreements;
- i. Develop and implement an extent-of-contamination and post-excavation sampling plan to verify cleanup objectives have been achieved;
- j. Collect and analyze additional surface/subsurface soil samples for delineation, disposal, and confirmation purposes; and
- k. Restore areas to pre-existing condition to the extent practicable.

**[NOTE: This Section should provide a brief description consistent with the Action Memorandum/Enforcement and should provide sufficient detail to permit Respondents to draft a Work Plan. Regions should ensure that the description is sufficiently broad and does not unintentionally limit removal actions in terms of hazardous substances to be addressed or to site boundaries if hazardous substances are present or migrate beyond boundaries to be addressed. Regions may append their own Statement of Work or Work Plan; if this situation occurs, modify Paragraph 15 as appropriate.]**

29. Work Plan and Implementation.

- a. Within five (5) ?? days after the Effective Date, Respondent shall submit to EPA for approval a draft Work Plan for performing the removal action generally described in Paragraph 14 above. The draft Work Plan shall provide a description of, and an expeditious schedule for, the actions required by this Settlement Agreement. **[NOTE: EPA shall require preparation of a Quality Assurance Project Plan ("QAPP") as part of the Work Plan except in circumstances involving emergency or non-complex removal work. The QAPP**

should be prepared in accordance with "EPA Requirements for Quality Assurance Project Plans (QA/R-5)" (EPA/240/B-01/003, March 2001), and "EPA Guidance for Quality Assurance Project Plans (QA/G-5)" (EPA/600/R-98/018, February 1998).] Ken, do you want this done since you are unsure about the contractor's qualifications?

b. EPA may approve, disapprove, require revisions to, or modify the draft Work Plan in whole or in part. If EPA requires revisions, Respondent shall submit a revised draft Work Plan within x days of receipt of EPA's notification of the required revisions. Respondent shall implement the Work Plan as approved in writing by EPA in accordance with the schedule approved by EPA. Once approved, or approved with modifications, the Work Plan, the schedule, and any subsequent modifications shall be incorporated into and become fully enforceable under this Settlement Agreement.

c. Respondent shall not commence any Work except in conformance with the terms of this Settlement Agreement. Respondent shall not commence implementation of the Work Plan developed hereunder until receiving written EPA approval pursuant to Paragraph 15(b).

30. Health and Safety Plan. Within X days after the Effective Date, Respondent shall submit for EPA review and comment a plan that ensures the protection of the public health and safety during performance of on-Site work under this Settlement Agreement. This plan shall be prepared in accordance with EPA's Standard Operating Safety Guide (PUB 9285.1-03, PB 92-963414, June 1992). In addition, the plan shall comply with all currently applicable Occupational Safety and Health Administration ("OSHA") regulations found at 29 C.F.R. Part 1910. If EPA determines that it is appropriate, the plan shall also include contingency planning. **[NOTE: Regions may provide more detail, e.g., SPCC, evacuation plans, etc.]** Respondent shall incorporate all changes to the plan recommended by EPA and shall implement the plan during the pendency of the removal action.

### 31. Quality Assurance and Sampling.

a. All sampling and analyses performed pursuant to this Settlement Agreement shall conform to EPA direction, approval, and guidance regarding sampling, quality assurance/quality control ("QA/QC"), data validation, and chain of custody procedures. Respondent shall ensure that the laboratory used to perform the analyses participates in a QA/QC program that complies with the appropriate EPA guidance. Respondent shall follow, as appropriate, "Quality Assurance/Quality Control Guidance for Removal Activities: Sampling QA/QC Plan and Data Validation Procedures" (OSWER Directive No. 9360.4-01, April 1, 1990), as guidance for QA/QC and sampling. **[NOTE: Regions should also check with Regional QA officers for standard operating procedures for QA/QC and sampling of soil, air, ecology, waste and water.]** Respondent shall only use laboratories that have a documented Quality System that complies with ANSI/ASQC E-4 1994, "Specifications and Guidelines for Quality Systems for Environmental Data Collection and Environmental Technology Programs" (American National Standard, January 5, 1995), and "EPA Requirements for Quality Management Plans

(QA/R-2) (EPA/240/B-01/002, March 2001)," or equivalent documentation as determined by EPA. EPA may consider laboratories accredited under the National Environmental Laboratory Accreditation Program ("NELAP") as meeting the Quality System requirements.

b. Upon request by EPA, Respondent shall have such a laboratory analyze samples submitted by EPA for QA monitoring. Respondent shall provide to EPA the QA/QC procedures followed by all sampling teams and laboratories performing data collection and/or analysis.

c. Upon request by EPA, Respondent shall allow EPA or its authorized representatives to take split and/or duplicate samples. Respondent shall notify EPA not less than X days in advance of any sample collection activity, unless shorter notice is agreed to by EPA. EPA shall have the right to take any additional samples that EPA deems necessary. Upon request, EPA shall allow Respondent to take split or duplicate samples of any samples it takes as part of its oversight of Respondent's implementation of the Work.

32. Post-Removal Site Control. In accordance with the Work Plan schedule, or as otherwise directed by EPA, Respondent shall submit a proposal for post-removal site control consistent with Section 300.415(l) of the NCP and OSWER Directive No. 9360.2-02. Upon EPA approval, Respondent shall implement such controls and shall provide EPA with documentation of all post-removal site control arrangements.

### 33. Reporting.

a. Respondent shall submit a written progress report to EPA concerning actions undertaken pursuant to this Settlement Agreement every seventh (7th) day after the date of receipt of EPA's approval of the Work Plan until termination of this Settlement Agreement, unless otherwise directed in writing by the OSC. These reports shall describe all significant developments during the preceding period, including the actions performed and any problems encountered, analytical data received during the reporting period, and the developments anticipated during the next reporting period, including a schedule of actions to be performed, anticipated problems, and planned resolutions of past or anticipated problems. **[NOTE: The frequency and content of these reports may be determined on a site-specific basis.]**

b. Respondent shall submit three (3) copies of all plans, reports or other submissions required by this Settlement Agreement or any approved work plan to the OSC. Upon request by EPA, Respondent shall submit such documents in electronic form.

c. Respondent, the owner of the Site, shall, at least 30 days prior to the conveyance of any interest in real property at the Site, give written notice to the transferee that the property is subject to this Settlement Agreement and written notice to EPA and the State of the proposed conveyance, including the name and address of the transferee. Respondent who owns the property at the Site also agrees to require that its successors comply with the immediately preceding sentence and Sections IX (Site Access) and X (Access to Information).

34. Final Report. Within 30? days after completion of all Work required by this Settlement Agreement, Respondent shall submit for EPA review and approval a final report summarizing the actions taken to comply with this Settlement Agreement. The final report shall conform, at a minimum, with the requirements set forth in Section 300.165 of the NCP entitled "OSC Reports." [NOTE: For removals that are more extensive, Regions may require compliance with "Superfund Removal Procedures: Removal Response Reporting – POLREPS and OSC Reports" (OSWER Directive No. 9360.3-03, June 1, 1994).] The final report shall include a good faith estimate of total costs or a statement of actual costs incurred in complying with the Settlement Agreement, a listing of quantities and types of materials removed off-Site or handled on-Site, a discussion of removal and disposal options considered for those materials, a listing of the ultimate destination(s) of those materials, a presentation of the analytical results of all sampling and analyses performed, and accompanying appendices containing all relevant documentation generated during the removal action (*e.g.*, manifests, invoices, bills, contracts, and permits). The final report shall also include the following certification signed by a person who supervised or directed the preparation of that report:

"Under penalty of law, I certify that to the best of my knowledge, after appropriate inquiries of all relevant persons involved in the preparation of the report, the information submitted is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

35. Off-Site Shipments.

a. Respondent shall, prior to any off-Site shipment of Waste Material from the Site to an out-of-state waste management facility, provide written notification of such shipment of Waste Material to the appropriate state environmental official in the receiving facility's state and to the On-Scene Coordinator. However, this notification requirement shall not apply to any off-Site shipments when the total volume of all such shipments will not exceed 10 cubic yards.

i. Respondent shall include in the written notification the following information: 1) the name and location of the facility to which the Waste Material is to be shipped; 2) the type and quantity of the Waste Material to be shipped; 3) the expected schedule for the shipment of the Waste Material; and 4) the method of transportation. Respondent shall notify the state in which the planned receiving facility is located of major changes in the shipment plan, such as a decision to ship the Waste Material to another facility within the same state, or to a facility in another state.

ii. The identity of the receiving facility and state will be determined by Respondent following the award of the contract for the removal action. Respondent shall provide the information required by Paragraph 21(a) and 21(b) as soon as practicable after the award of the contract and before the Waste Material is actually shipped.



b. Before shipping any hazardous substances, pollutants, or contaminants from the Site to an off-site location, Respondent shall obtain EPA's certification that the proposed receiving facility is operating in compliance with the requirements of CERCLA Section 121(d)(3), 42 U.S.C. § 9621(d)(3), and 40 C.F.R. § 300.440. Respondent shall only send hazardous substances, pollutants, or contaminants from the Site to an off-site facility that complies with the requirements of the statutory provision and regulation cited in the preceding sentence.

### **IX. SITE ACCESS**

36. If the Site, or any other property where access is needed to implement this Settlement Agreement, is owned or controlled by the Respondent, such Respondent shall, commencing on the Effective Date, provide EPA and the State, and their representatives, including contractors, with access at all reasonable times to the Site, or such other property, for the purpose of conducting any activity related to this Settlement Agreement.

37. Where any action under this Settlement Agreement is to be performed in areas owned by or in possession of someone other than Respondent, Respondent shall use its best efforts to obtain all necessary access agreements within X days after the Effective Date, or as otherwise specified in writing by the OSC. Respondent shall immediately notify EPA if after using its best efforts it is unable to obtain such agreements. For purposes of this Paragraph, "best efforts" includes the payment of reasonable sums of money in consideration of access. Respondent shall describe in writing its efforts to obtain access. EPA may then assist Respondent in gaining access, to the extent necessary to effectuate the response actions described in this Settlement Agreement, using such means as EPA deems appropriate. Respondent shall reimburse EPA for all costs and attorney's fees incurred by the United States in obtaining such access, in accordance with the procedures in Section XV (Payment of Response Costs).

**[NOTE: If EPA determines that land/water use restrictions are needed on property owned by settling or non-settling landowners, or that a property interest running with the land (granting either a right of access or a right to enforce land/water use restrictions) should be acquired from settling or non-settling landowners, look to the model language included in Section IX of the Revised Model RD/RA Consent Decree (June 15, 2001, or more recent update).]**

38. Notwithstanding any provision of this Settlement Agreement, EPA and the State retain all of their access authorities and rights [if land/water use restrictions are included, insert "as well as all of its [their] rights to require land/water use restrictions"], including enforcement authorities related thereto, under CERCLA, RCRA, and any other applicable statutes or regulations.

### **X. ACCESS TO INFORMATION**

39. Respondent shall provide to EPA and the State, upon request, copies of all documents and information within its possession or control or that of its contractors or agents relating to

activities at the Site or to the implementation of this Settlement Agreement, including, but not limited to, sampling, analysis, chain of custody records, manifests, trucking logs, receipts, reports, sample traffic routing, correspondence, or other documents or information related to the Work. Respondent shall also make available to EPA and the State, for purposes of investigation, information gathering, or testimony, its employees, agents, or representatives with knowledge of relevant facts concerning the performance of the Work.

40. Respondent may assert business confidentiality claims covering part or all of the documents or information submitted to EPA and the State under this Settlement Agreement to the extent permitted by and in accordance with Section 104(e)(7) of CERCLA, 42 U.S.C. § 9604(e)(7), and 40 C.F.R. § 2.203(b). Documents or information determined to be confidential by EPA will be afforded the protection specified in 40 C.F.R. Part 2, Subpart B. If no claim of confidentiality accompanies documents or information when they are submitted to EPA and the State, or if EPA has notified Respondent that the documents or information are not confidential under the standards of Section 104(e)(7) of CERCLA or 40 C.F.R. Part 2, Subpart B, the public may be given access to such documents or information without further notice to Respondent.

41. Respondent may assert that certain documents, records and other information are privileged under the attorney-client privilege or any other privilege recognized by federal law. If the Respondent assert such a privilege in lieu of providing documents, it shall provide EPA and the State with the following: 1) the title of the document, record, or information; 2) the date of the document, record, or information; 3) the name and title of the author of the document, record, or information; 4) the name and title of each addressee and recipient; 5) a description of the contents of the document, record, or information; and 6) the privilege asserted by Respondent. However, no documents, reports or other information created or generated pursuant to the requirements of this Settlement Agreement shall be withheld on the grounds that they are privileged.

42. No claim of confidentiality shall be made with respect to any data, including, but not limited to, all sampling, analytical, monitoring, hydrogeologic, scientific, chemical, or engineering data, or any other documents or information evidencing conditions at or around the Site.

## **XI. RECORD RETENTION**

43. Until 10 years after Respondent's receipt of EPA's notification pursuant to Section XXIX (Notice of Completion of Work), Respondent shall preserve and retain all non-identical copies of records and documents (including records or documents in electronic form) now in its possession or control or which come into its possession or control that relate in any manner to the performance of the Work or the liability of any person under CERCLA with respect to the Site, regardless of any corporate retention policy to the contrary. Until 10 years after Respondent's receipt of EPA's notification pursuant to Section XXIX (Notice of Completion of Work), Respondent shall also instruct its contractors and agents to preserve all documents, records, and information of whatever kind, nature or description relating to performance of the Work.

44. At the conclusion of this document retention period, Respondent shall notify EPA and the State at least 90 days prior to the destruction of any such records or documents, and, upon request by EPA or the State, Respondent shall deliver any such records or documents to EPA or the State. Respondent may assert that certain documents, records and other information are privileged under the attorney-client privilege or any other privilege recognized by federal law. If Respondent asserts such a privilege, it shall provide EPA or the State with the following: 1) the title of the document, record, or information; 2) the date of the document, record, or information; 3) the name and title of the author of the document, record, or information; 4) the name and title of each addressee and recipient; 5) a description of the subject of the document, record, or information; and 6) the privilege asserted by Respondent. However, no documents, reports or other information created or generated pursuant to the requirements of this Settlement Agreement shall be withheld on the grounds that they are privileged.

42. Respondent hereby certifies that to the best of its knowledge and belief, after thorough inquiry, it has not altered, mutilated, discarded, destroyed or otherwise disposed of any records, documents or other information (other than identical copies) relating to its potential liability regarding the Site since notification of potential liability by EPA or the State or the filing of suit against it regarding the Site and that it has fully complied with any and all EPA requests for information pursuant to Sections 104(e) and 122(e) of CERCLA, 42 U.S.C. §§ 9604(e) and 9622(e), and Section 3007 of RCRA, 42 U.S.C. § 6927.

## **XII. COMPLIANCE WITH OTHER LAWS**

43. Respondent shall perform all actions required pursuant to this Settlement Agreement in accordance with all applicable state and federal laws and regulations except as provided in Section 121(e) of CERCLA, 42 U.S.C. § 6921(e), and 40 C.F.R. §§ 300.400(e) and 300.415(j). In accordance with 40 C.F.R. § 300.415(j), all on-Site actions required pursuant to this Settlement Agreement shall, to the extent practicable, as determined by EPA, considering the exigencies of the situation, attain applicable or relevant and appropriate requirements ("ARARs") under federal environmental or state environmental or facility siting laws. Respondent shall identify ARARs in the work plans subject to EPA approval. **DO YOU WANT THIS LAST SENTENCE?**

### **XIII. EMERGENCY RESPONSE AND NOTIFICATION OF RELEASES**

44. In the event of any action or occurrence during performance of the Work which causes or threatens a release of Waste Material from the Site that constitutes an emergency situation or may present an immediate threat to public health or welfare or the environment, Respondent shall immediately take all appropriate action. Respondent shall take these actions in accordance with all applicable provisions of this Settlement Agreement, including, but not limited to, the Health and Safety Plan, in order to prevent, abate or minimize such release or endangerment caused or threatened by the release. Respondent shall also immediately notify the OSC or, in the event of his/her unavailability, the Regional Duty Officer, Emergency Response and Removal Branch, EPA Region 4, at 404-562-8700, of the incident or Site conditions. In the event that Respondent fails to take appropriate response action as required by this Paragraph, and EPA takes such action instead, Respondent shall reimburse EPA all costs of the response action not inconsistent with the NCP pursuant to Section XV (Payment of Response Costs).

45. In addition, in the event of any release of a hazardous substance from the Site, Respondent shall immediately notify the OSC at YOUR PHONE NUMBER. If unavailable, Respondent shall notify the duty OSC at 404-562-8700 or the National Response Center at 800-424-8802. Respondent shall submit a written report to EPA within seven (7) days after each release, setting forth the events that occurred and the measures taken or to be taken to mitigate any release or endangerment caused or threatened by the release and to prevent the reoccurrence of such a release. This reporting requirement is in addition to, and not in lieu of, reporting under Section 103(c) of CERCLA, 42 U.S.C. § 9603(c), and Section 304 of the Emergency Planning and Community Right-To-Know Act of 1986, 42 U.S.C. § 11004, *et seq.*

### **XIV. AUTHORITY OF ON-SCENE COORDINATOR**

46. The OSC shall be responsible for overseeing Respondent's implementation of this Settlement Agreement. The OSC shall have the authority vested in an OSC by the NCP, including the authority to halt, conduct, or direct any Work required by this Settlement Agreement, or to direct any other removal action undertaken at the Site. Absence of the OSC from the Site shall not be cause for stoppage of work unless specifically directed by the OSC.

### **XV. PAYMENT OF RESPONSE COSTS**

#### **[47] Payment for Past Response Costs.**

a. Within 30 days after the Effective Date, Respondents shall pay to EPA \$\_\_\_ for Past Response Costs. **[NOTE: The following language should be used if the payment amount is above \$10,000. Regional attorneys should consult with the Comptroller's Office in the Region to determine if more specific EFT instructions should be included.]** Payment shall be made to EPA by Electronic Funds Transfer ("EFT") in accordance with current EFT procedures to be provided to Respondents by EPA Region \_\_, and shall be accompanied by a statement identifying the name and address of the party(ies) making payment, the Site name, the

EPA Region and Site/Spill ID Number \_\_\_\_\_, and the EPA docket number for this action.]

**[NOTE: The following language may be used if the payment amount is below \$10,000.]**

Payment shall be made by certified or cashier's check made payable to "EPA Hazardous Substance Superfund." Each check, or a letter accompanying each check, shall identify the name and address of the party(ies) making payment, the Site name, the EPA Region and Site/Spill ID Number \_\_\_\_\_, and the EPA docket number for this action, and shall be sent to:

EPA Superfund

[Insert Regional Superfund lockbox number and address]

b. At the time of payment, Respondents shall send notice that such payment has been made by email to [acctsreceivable.cinwd@epa.gov](mailto:acctsreceivable.cinwd@epa.gov) and to:

EPA Cincinnati Finance Office  
26 Martin Luther King Drive  
Cincinnati, Ohio 45268

**48. Payments for Future Response Costs.**

a. Respondent shall pay EPA all Future Response Costs not inconsistent with the NCP. On a periodic basis, EPA will send Respondent a bill requiring payment that includes a , which includes direct and indirect costs incurred by EPA and its contractors. Also insert name of DOJ-prepared cost summary, which would reflect costs incurred by DOJ and its contractors, if any]. Respondent shall make all payments within 30 days of receipt of each bill requiring payment, except as otherwise provided in Paragraph 39 of this Settlement Agreement.

b. Respondent shall make all payments required by this Paragraph by a certified or cashier's check or checks made payable to "EPA Hazardous Substance Superfund," referencing the name and address of the party(ies) making payment and EPA Site/Spill ID number \_\_\_\_\_. Respondents shall send the check(s) to:

[Insert appropriate Regional Superfund Lockbox number and address]

**[NOTE: Regions may substitute EFT payment instructions.]**

c. At the time of payment, Respondent shall send notice that payment has been made to by email to [acctsreceivable.cinwd@epa.gov](mailto:acctsreceivable.cinwd@epa.gov) and to:

EPA Cincinnati Finance Office  
26 Martin Luther King Drive  
Cincinnati, Ohio 45268

.49. In the event that the payment for Past Response Costs is not made within 30 days of the Effective Date, or the payments for Future Response Costs are not made within 30 days of Respondents' receipt of a bill, Respondent shall pay Interest on the unpaid balance. The Interest on Past Response Costs shall begin to accrue on the Effective Date and shall continue to accrue until the date of payment. The Interest on Future Response Costs shall begin to accrue on the date of the bill and shall continue to accrue until the date of payment. Payments of Interest made under this Paragraph shall be in addition to such other remedies or sanctions available to the United States by virtue of Respondent's failure to make timely payments under this Section, including but not limited to, payment of stipulated penalties pursuant to Section XVIII.

50. Respondent may contest payment of any Future Response Costs billed under Paragraph 37 if it determines that EPA has made a mathematical error, or if it believes EPA incurred excess costs as a direct result of an EPA action that was inconsistent with the NCP. Such objection shall be made in writing within 30 days of receipt of the bill and must be sent to the OSC. Any such objection shall specifically identify the contested Future Response Costs and the basis for objection. In the event of an objection, Respondent shall within the 30-day period pay all uncontested Future Response Costs to EPA in the manner described in Paragraph 37. Simultaneously, Respondent shall establish an interest-bearing escrow account in a federally-insured bank duly chartered in the State of North Carolina and remit to that escrow account funds equivalent to the amount of the contested Future Response Costs. Respondent shall send to the EPA OSC a copy of the transmittal letter and check paying the uncontested Future Response Costs, and a copy of the correspondence that establishes and funds the escrow account, including, but not limited to, information containing the identity of the bank and bank account under which the escrow account is established as well as a bank statement showing the initial balance of the escrow account. Simultaneously with establishment of the escrow account, Respondent shall initiate the Dispute Resolution procedures in Section XVI (Dispute Resolution). If EPA prevails in the dispute, within 5 days of the resolution of the dispute, Respondent shall pay the sums due (with accrued interest) to EPA in the manner described in Paragraph 37. If Respondents prevail concerning any aspect of the contested costs, Respondent shall pay that portion of the costs (plus associated accrued interest) for which they did not prevail to EPA in the manner described in Paragraph 37. Respondent shall be disbursed any balance of the escrow account. The dispute resolution procedures set forth in this Paragraph in conjunction with the procedures set forth in Section XVI (Dispute Resolution) shall be the exclusive mechanisms for resolving disputes regarding Respondents' obligation to reimburse EPA for its Future Response Costs.

#### **[XVI. DISPUTE RESOLUTION]<sup>1</sup>**

[ 51. Unless otherwise expressly provided for in this Settlement Agreement, the dispute resolution procedures of this Section shall be the exclusive mechanism for resolving disputes

---

<sup>1</sup> If Section XVI is not included, conforming changes are needed to Paragraphs 39, 50, 52, 54, 59, 75 and 76.

arising under this Settlement Agreement. The Parties shall attempt to resolve any disagreements concerning this Settlement Agreement expeditiously and informally.

52. If Respondent objects to any EPA action taken pursuant to this Settlement Agreement, including billings for Future Response Costs, it shall notify EPA in writing of its objection(s) within   30   days of such action, unless the objection(s) has/have been resolved informally. EPA and Respondent shall have   30   days from EPA's receipt of Respondent's written objection(s) to resolve the dispute through formal negotiations (the "Negotiation Period"). The Negotiation Period may be extended at the sole discretion of EPA.

53. Any agreement reached by the parties pursuant to this Section shall be in writing and shall, upon signature by both parties, be incorporated into and become an enforceable part of this Settlement Agreement. If the Parties are unable to reach an agreement within the Negotiation Period, an EPA management official at the Chief, Emergency Response and Removal Branch level or higher will issue a written decision on the dispute to Respondent. EPA's decision shall be incorporated into and become an enforceable part of this Settlement Agreement. Respondent's obligations under this Settlement Agreement shall not be tolled by submission of any objection for dispute resolution under this Section. Following resolution of the dispute, as provided by this Section, Respondent shall fulfill the requirement that was the subject of the dispute in accordance with the agreement reached or with EPA's decision, whichever occurs.]

## **XVII. FORCE MAJEURE**

54. Respondent agree to perform all requirements of this Settlement Agreement within the time limits established under this Settlement Agreement, unless the performance is delayed by a *force majeure*. For purposes of this Settlement Agreement, a *force majeure* is defined as any event arising from causes beyond the control of Respondent, or of any entity controlled by Respondent, including but not limited to its contractors and subcontractors, which delays or prevents performance of any obligation under this Settlement Agreement despite Respondent's best efforts to fulfill the obligation. *Force majeure* does not include financial inability to complete the work or increased cost of performance.

55. If any event occurs or has occurred that may delay the performance of any obligation under this Settlement Agreement, whether or not caused by a *force majeure* event, Respondent shall notify EPA orally within five (5)??? days of when Respondent first knew that the event might cause a delay. Within five (5)??   30   days thereafter, Respondent shall provide to EPA in writing an explanation and description of the reasons for the delay; the anticipated duration of the delay; all actions taken or to be taken to prevent or minimize the delay; a schedule for implementation of any measures to be taken to prevent or mitigate the delay or the effect of the delay; Respondent's rationale for attributing such delay to a *force majeure* event if they intend to assert such a claim; and a statement as to whether, in the opinion of Respondent, such event may cause or contribute to an endangerment to public health, welfare or the environment. Failure to comply with the above requirements shall preclude Respondent from asserting any claim of *force majeure* for that event for the period of time of such failure to comply and for any additional delay caused by such failure.

56. If EPA agrees that the delay or anticipated delay is attributable to a *force majeure* event, the time for performance of the obligations under this Settlement Agreement that are affected by the *force majeure* event will be extended by EPA for such time as is necessary to complete those obligations. An extension of the time for performance of the obligations affected by the *force majeure* event shall not, of itself, extend the time for performance of any other obligation. If EPA does not agree that the delay or anticipated delay has been or will be caused by a *force majeure* event, EPA will notify Respondent in writing of its decision. If EPA agrees that the delay is attributable to a *force majeure* event, EPA will notify Respondent in writing of the length of the extension, if any, for performance of the obligations affected by the *force majeure* event.

### **XVIII. STIPULATED PENALTIES**

57. Respondent shall be liable to EPA for stipulated penalties in the amounts set forth in Paragraphs 47 and 48 for failure to comply with the requirements of this Settlement Agreement specified below, unless excused under Section XVII (*Force Majeure*). "Compliance" by Respondent shall include completion of the activities under this Settlement Agreement or any work plan or other plan approved under this Settlement Agreement identified below in accordance with all applicable requirements of law, this Settlement Agreement, [the SOW,] and any plans or other documents approved by EPA pursuant to this Settlement Agreement and within the specified time schedules established by and approved under this Settlement Agreement.

#### **58. Stipulated Penalty Amounts - Work.**

a. The following stipulated penalties shall accrue per violation per day for any noncompliance identified in Paragraph 47(b): (This are just suggested amounts from another AOC)

<u>Penalty Per Violation Per Day</u>	<u>Period of Noncompliance</u>
\$ 575.00	1st through 14th day
\$1,500.00	15th through 30th day
\$3,000.00	31st day and beyond

#### **b. Compliance Milestones**

[List violations or compliance milestones, including due dates for payments]

59. Stipulated Penalty Amounts - Reports. The following stipulated penalties shall accrue per violation per day for failure to submit timely or adequate reports [or other written documents] pursuant to Paragraphs \_\_\_\_\_ :

<u>Penalty Per Violation Per Day</u>	<u>Period of Noncompliance</u>
\$ 275.00	1st through 14th day
\$ 625.00	15th through 30th day
\$ 1,250.00	31st day and beyond



**[NOTE: If Paragraph 59 (Work Takeover) is included, insert the following paragraph.]**

60. In the event that EPA assumes performance of a portion or all of the Work pursuant to Paragraph 59 of Section XX, Respondents shall be liable for a stipulated penalty in the amount of \$100,000.]

61. All penalties shall begin to accrue on the day after the complete performance is due or the day a violation occurs, and shall continue to accrue through the final day of the correction of the noncompliance or completion of the activity. However, stipulated penalties shall not accrue: 1) with respect to a deficient submission under Section VIII (Work to be Performed), during the period, if any, beginning on the 31st day after EPA's receipt of such submission until the date that EPA notifies Respondents of any deficiency; and 2) with respect to a decision by the EPA Management Official at the [insert Region-specific] level or higher, under Paragraph 42 of Section XVI (Dispute Resolution), during the period, if any, beginning on the 21st day after the Negotiation Period begins until the date that the EPA management official issues a final decision regarding such dispute. Nothing in this Settlement Agreement shall prevent the simultaneous accrual of separate penalties for separate violations of this Settlement Agreement.

62. Following EPA's determination that Respondent has failed to comply with a requirement of this Settlement Agreement, EPA may give Respondent written notification of the failure and describe the noncompliance. EPA may send Respondent a written demand for payment of the penalties. However, penalties shall accrue as provided in the preceding Paragraph regardless of whether EPA has notified Respondent of a violation.

63. All penalties accruing under this Section shall be due and payable to EPA within 30 days of Respondent's receipt from EPA of a demand for payment of the penalties, unless Respondent invoke the dispute resolution procedures under Section XVI (Dispute Resolution). All payments to EPA under this Section shall be paid by certified or cashier's check(s) made payable to "EPA Hazardous Substances Superfund," shall be mailed to [insert the Regional Lockbox number and address], shall indicate that the payment is for stipulated penalties, and shall reference the EPA Region and Site/Spill ID Number [redacted], the EPA Docket Number [redacted], and the name and address of the party(ies) making payment. Copies of check(s) paid pursuant to this Section, and any accompanying transmittal letter(s), shall be sent to EPA as provided in Paragraph 36.

64. The payment of penalties shall not alter in any way Respondent's obligation to complete performance of the Work required under this Settlement Agreement.

65. Penalties shall continue to accrue during any dispute resolution period, but need not be paid until 15 days after the dispute is resolved by agreement or by receipt of EPA's decision.

66. If Respondent fails to pay stipulated penalties when due, EPA may institute proceedings to collect the penalties, as well as Interest. Respondent shall pay Interest on the unpaid balance, which shall begin to accrue on the date of demand made pursuant to Paragraph 52. Nothing in this Settlement Agreement shall be construed as prohibiting, altering, or in any way

limiting the ability of EPA to seek any other remedies or sanctions available by virtue of Respondent's violation of this Settlement Agreement or of the statutes and regulations upon which it is based, including, but not limited to, penalties pursuant to Sections 106(b) and 122(l) of CERCLA, 42 U.S.C. §§ 9606(b) and 9622(l), and punitive damages pursuant to Section 107(c)(3) of CERCLA, 42 U.S.C. § 9607(c)(3). Provided, however, that EPA shall not seek civil penalties pursuant to Section 106(b) or 122(l) of CERCLA or punitive damages pursuant to Section 107(c)(3) of CERCLA for any violation for which a stipulated penalty is provided in this Section, except in the case of a willful violation of this Settlement Agreement [if Paragraph 59 (Work Takeover) is included, insert, "or in the event that EPA assumes performance of a portion or all of the Work pursuant to Section XX, Paragraph 59."]. Notwithstanding any other provision of this Section, EPA may, in its unreviewable discretion, waive any portion of stipulated penalties that have accrued pursuant to this Settlement Agreement.

### **XIX. COVENANT NOT TO SUE BY EPA**

**[NOTE: Use Paragraph 56, Alternative 1, if the Settlement Agreement requires payment of Past Response Costs and Future Response Costs.]**

67. **[Alternative 1]** In consideration of the actions that will be performed and the payments that will be made by Respondent under the terms of this Settlement Agreement, and except as otherwise specifically provided in this Settlement Agreement, EPA covenants not to sue or to take administrative action against Respondent pursuant to Sections 106 and 107(a) of CERCLA, 42 U.S.C. §§ 9606 and 9607(a), for the Work, Past Response Costs, and Future Response Costs. This covenant not to sue shall take effect upon receipt by EPA of the Past Response Costs due under Section XV of this Settlement Agreement and any Interest or Stipulated Penalties due for failure to pay Past Response Costs as required by Sections XV and XVIII of this Settlement Agreement. This covenant not to sue is conditioned upon the complete and satisfactory performance by Respondent of its obligations under this Settlement Agreement, including, but not limited to, payment of Future Response Costs pursuant to Section XV. This covenant not to sue extends only to Respondent and does not extend to any other person.

**[NOTE: Use Paragraph 56, Alternative 2, if the Settlement Agreement requires payment of Future Response Costs only.] - or**

56. **[Alternative 2]** In consideration of the actions that will be performed and the payments that will be made by Respondent under the terms of this Settlement Agreement, and except as otherwise specifically provided in this Settlement Agreement, EPA covenants not to sue or to take administrative action against Respondent pursuant to Sections 106 and 107(a) of CERCLA, 42 U.S.C. §§ 9606 and 9607(a), for the Work and Future Response Costs. This covenant not to sue shall take effect upon the Effective Date and is conditioned upon the complete and satisfactory performance by Respondent of all obligations under this Settlement Agreement, including, but not limited to, payment of Future Response Costs pursuant to Section XV. This covenant not to sue extends only to Respondent and does not extend to any other person.

**XX. RESERVATIONS OF RIGHTS BY EPA**

68. Except as specifically provided in this Settlement Agreement, nothing in this Settlement Agreement shall limit the power and authority of EPA or the United States to take, direct, or order all actions necessary to protect public health, welfare, or the environment or to prevent, abate, or minimize an actual or threatened release of hazardous substances, pollutants or contaminants, or hazardous or solid waste on, at, or from the Site. Further, nothing in this Settlement Agreement shall prevent EPA from seeking legal or equitable relief to enforce the terms of this Settlement Agreement, from taking other legal or equitable action as it deems appropriate and necessary, or from requiring Respondent in the future to perform additional activities pursuant to CERCLA or any other applicable law.

69. The covenant not to sue set forth in Section XIX above does not pertain to any matters other than those expressly identified therein. EPA reserves, and this Settlement Agreement is without prejudice to, all rights against Respondent with respect to all other matters, including, but not limited to:

- a. claims based on a failure by Respondent to meet a requirement of this Settlement Agreement;
- b. liability for costs not included within the definitions of Past Response Costs or Future Response Costs;
- c. liability for performance of response action other than the Work;
- d. criminal liability;
- e. liability for damages for injury to, destruction of, or loss of natural resources, and for the costs of any natural resource damage assessments;
- f. liability arising from the past, present, or future disposal, release or threat of release of Waste Materials outside of the Site; and
- g. liability for costs incurred or to be incurred by the Agency for Toxic Substances and Disease Registry related to the Site.

70. Work Takeover. In the event EPA determines that Respondent has ceased implementation of any portion of the Work, are seriously or repeatedly deficient or late in its performance of the Work, or are implementing the Work in a manner which may cause an endangerment to human health or the environment, EPA may assume the performance of all or any portion of the Work as EPA determines necessary. Respondent may invoke the procedures set forth in Section XVI (Dispute Resolution) to dispute EPA's determination that takeover of the Work is warranted under this Paragraph. Costs incurred by the United States in performing the Work pursuant to this Paragraph shall be considered Future Response Costs that Respondent shall

pay pursuant to Section XV (Payment of Response Costs). Notwithstanding any other provision of this Settlement Agreement, EPA retains all authority and reserves all rights to take any and all response actions authorized by law.]

## **XXI. COVENANT NOT TO SUE BY RESPONDENTS**

71. Respondent covenant not to sue and agree not to assert any claims or causes of action against the United States, or its contractors or employees, with respect to the Work, Past Response Costs, Future Response Costs, or this Settlement Agreement, including, but not limited to:

a. any direct or indirect claim for reimbursement from the Hazardous Substance Superfund established by 26 U.S.C. § 9507, based on Sections 106(b)(2), 107, 111, 112, or 113 of CERCLA, 42 U.S.C. §§ 9606(b)(2), 9607, 9611, 9612, or 9613, or any other provision of law;

b. any claim arising out of response actions at or in connection with the Site, including any claim under the United States Constitution, the North Carolina Constitution, the Tucker Act, 28 U.S.C. § 1491, the Equal Access to Justice Act, 28 U.S.C. § 2412, as amended, or at common law; or

c. any claim against the United States pursuant to Sections 107 and 113 of CERCLA, 42 U.S.C. §§ 9607 and 9613, relating to the Work, Past Response Costs, or Future Response Costs.

These covenants not to sue shall not apply in the event the United States brings a cause of action or issues an order pursuant to the reservations set forth in Paragraphs 58 (b), (c), and (e) - (g), but only to the extent that Respondent's claims arise from the same response action, response costs, or damages that the United States is seeking pursuant to the applicable reservation.

72. Nothing in this Agreement shall be deemed to constitute approval or preauthorization of a claim within the meaning of Section 111 of CERCLA, 42 U.S.C. § 9611, or 40 C.F.R. § 300.700(d).

**[NOTE: Insert the following paragraph if remedial action is anticipated at the Site.] DO YOU THINK THIS IS POSSIBLE?**

[\_\_\_. Respondent agrees not to seek judicial review of the final rule listing the Site on the NPL based on a claim that changed site conditions that resulted from the performance of the Work in any way affected the basis for listing the Site.]

**[NOTE: Insert the following waiver in Settlement Agreements that involve Sites that are not listed as final on the National Priorities List.]<sup>2</sup>**

---

73. Respondent agrees not to assert any claims and to waive all claims or causes of action that it may have for all matters relating to the Site, including for contribution, against any person where the person's liability to Respondent with respect to the Site is based solely on having arranged for disposal or treatment, or for transport for disposal or treatment, of hazardous substances at the Site, or having accepted for transport for disposal or treatment of hazardous substances at the Site, if all or part of the disposal, treatment, or transport occurred before April 1, 2001, and the total amount of material containing hazardous substances contributed by such person to the Site was less than 110 gallons of liquid materials or 200 pounds of solid materials.

74. The waiver in Paragraph 62 shall not apply with respect to any defense, claim, or cause of action that a Respondent may have against any person meeting the above criteria if such person asserts a claim or cause of action relating to the Site against such Respondent. This waiver also shall not apply to any claim or cause of action against any person meeting the above criteria if EPA determines:

a. that such person has failed to comply with any EPA requests for information or administrative subpoenas issued pursuant to Section 104(e) or 122(e) of CERCLA, 42 U.S.C. §§ 9604(e) or 9622(e), or Section 3007 of the Solid Waste Disposal Act (also known as the Resource Conservation and Recovery Act or "RCRA"), 42 U.S.C. § 6972, or has impeded or is impeding, through action or inaction, the performance of a response action or natural resource restoration with respect to the Site, or has been convicted of a criminal violation for the conduct to which this waiver would apply and that conviction has not been vitiated on appeal or otherwise; or

b. that the materials containing hazardous substances contributed to the Site by such person have contributed significantly, or could contribute significantly, either individually or in the aggregate, to the cost of response action or natural resource restoration at the Site.

## **XXII. OTHER CLAIMS**

75. By issuance of this Settlement Agreement, the United States and EPA assume no liability for injuries or damages to persons or property resulting from any acts or omissions of Respondent. The United States or EPA shall not be deemed a party to any contract entered into by Respondent or its directors, officers, employees, agents, successors, representatives, assigns, contractors, or consultants in carrying out actions pursuant to this Settlement Agreement.

76. Except as expressly provided in Section ? (Covenant not to sue by Respondent) and Section XIX (Covenant Not to Sue by EPA), nothing in this Settlement Agreement constitutes a satisfaction of or release from any claim or cause of action against Respondent or any person not a party to this Settlement Agreement, for any liability such person may have under CERCLA, other statutes, or common law, including but not limited to any claims of the United States for costs, damages and interest under Sections 106 and 107 of CERCLA, 42 U.S.C. §§ 9606 and 9607.

77. No action or decision by EPA pursuant to this Settlement Agreement shall give rise to any right to judicial review, except as set forth in Section 113(h) of CERCLA, 42 U.S.C. § 9613(h).

### **XXIII. CONTRIBUTION**

78.a. The Parties agree that this Settlement Agreement constitutes an administrative settlement for purposes of Section 113(f)(2) of CERCLA, 42 U.S.C. § 9613(f)(2), and that Respondent is entitled, as of the Effective Date, to protection from contribution actions or claims as provided by Sections 113(f)(2) and 122(h)(4) of CERCLA, 42 U.S.C. §§ 9613(f)(2) and 9622(h)(4), for "matters addressed" in this Settlement Agreement. The "matters addressed" in this Settlement Agreement are the Work, Past Response Costs, and Future Response Costs.

b. The Parties agree that this Settlement Agreement constitutes an administrative settlement for purposes of Section 113(f)(3)(B) of CERCLA, 42 U.S.C. § 9613(f)(3)(B), pursuant to which Respondent has, as of the Effective Date, resolved their liability to the United States for the Work, Past Response Costs, and Future Response Costs.<sup>3</sup>

c. [Insert if applicable, "Except as provided in Section XXI, Paragraph[s] \_\_, of this Settlement Agreement, nothing in this Settlement Agreement precludes the United States or Respondent from asserting any claims, causes of action, or demands for indemnification, contribution, or cost recovery against any persons not parties to this Settlement Agreement. Nothing in this Settlement Agreement diminishes the right of the United States, pursuant to Section 113(f)(2) and (3) of CERCLA, 42 U.S.C. § 9613(f)(2)-(3), to pursue any such persons to obtain additional response costs or response action and to enter into settlements that give rise to contribution protection pursuant to Section 113(f)(2).]

---

<sup>3</sup> In most cases the liability resolved, for purposes of Section 113(f)(3)(B), will be the same as the liability covered by the covenant not to sue and the "matters addressed," *i.e.*, the Work required by the Settlement Agreement and the Future and/or Past Response Costs, as applicable. However, there may be instances in which EPA and Respondents intend to resolve other liability, in which case the Region should describe the liability resolved in some other fashion. For example, Respondents may have performed response action or paid response costs prior to the Effective Date, which work or costs EPA believes should be recognized as liability "resolved" under the Settlement Agreement. Possible fact patterns include actions preparatory to the "work" required under the settlement, work undertaken voluntarily at the site, or work completed under a unilateral administrative order issued by EPA. Where such work or costs have not been expressly recognized as "resolved" in a prior EPA settlement, and EPA and DOJ agree that such recognition is appropriate in this agreement, the prior work/costs should be described with specificity in one or more paragraphs, and the end of Paragraph 67(b) should include the additional clause, "and for those response actions taken or costs paid prior to the Effective Date and described in [insert relevant paragraph numbers describing the additional work] of this Settlement Agreement."

#### **XXIV. INDEMNIFICATION**

79. Respondent shall indemnify, save and hold harmless the United States, its officials, agents, contractors, subcontractors, employees and representatives from any and all claims or causes of action arising from, or on account of, negligent or other wrongful acts or omissions of Respondent, its officers, directors, employees, agents, contractors, or subcontractors, in carrying out actions pursuant to this Settlement Agreement. In addition, Respondent agrees to pay the United States all costs incurred by the United States, including but not limited to attorneys fees and other expenses of litigation and settlement, arising from or on account of claims made against the United States based on negligent or other wrongful acts or omissions of Respondent, its officers, directors, employees, agents, contractors, subcontractors and any persons acting on its behalf or under its control, in carrying out activities pursuant to this Settlement Agreement. The United States shall not be held out as a party to any contract entered into by or on behalf of Respondent in carrying out activities pursuant to this Settlement Agreement. Neither Respondent nor any such contractor shall be considered an agent of the United States.

80. The United States shall give Respondent notice of any claim for which the United States plans to seek indemnification pursuant to this Section and shall consult with Respondent prior to settling such claim.

81. Respondent waives all claims against the United States for damages or reimbursement or for set-off of any payments made or to be made to the United States, arising from or on account of any contract, agreement, or arrangement between the Respondent and any person for performance of Work on or relating to the Site, including, but not limited to, claims on account of construction delays. In addition, Respondent shall indemnify and hold harmless the United States with respect to any and all claims for damages or reimbursement arising from or on account of any contract, agreement, or arrangement between any one or more of Respondents and any person for performance of Work on or relating to the Site, including, but not limited to, claims on account of construction delays.

#### **XXV. INSURANCE**

82. At least X days prior to commencing any on-Site work under this Settlement Agreement, Respondent shall secure, and shall maintain for the duration of this Settlement Agreement, comprehensive general liability insurance and automobile insurance with limits of \$1 million dollars, combined single limit, naming EPA as an additional insured. Within the same time period, Respondent shall provide EPA with certificates of such insurance and a copy of each insurance policy. Respondent shall submit such certificates and copies of policies each year on the anniversary of the Effective Date. In addition, for the duration of the Settlement Agreement, Respondent shall satisfy, or shall ensure that their contractors or subcontractors satisfy, all applicable laws and regulations regarding the provision of worker's compensation insurance for all persons performing the Work on behalf of Respondent in furtherance of this Settlement Agreement. If Respondent demonstrates by evidence satisfactory to EPA that any contractor or subcontractor maintains insurance equivalent to that described above, or insurance covering some or all of the

same risks but in an equal or lesser amount, then Respondent need provide only that portion of the insurance described above which is not maintained by such contractor or subcontractor.

## **XXVI. FINANCIAL ASSURANCE**

83. Within 30 days of the Effective Date, Respondent shall establish and maintain financial security for the benefit of EPA in the amount of \$ **[insert estimated cost of Work]** in one or more of the following forms, in order to secure the full and final completion of Work by Respondents:

- a. a surety bond unconditionally guaranteeing payment and/or performance of the Work;
- b. one or more irrevocable letters of credit, payable to or at the direction of EPA, issued by financial institution(s) acceptable in all respects to EPA;
- c. a trust fund administered by a trustee acceptable in all respects to EPA;
- d. a policy of insurance issued by an insurance carrier acceptable in all respects to EPA, which ensures the payment and/or performance of the Work;
- e. a written guarantee to pay for or perform the Work provided by one (1) or more parent companies of Respondent, or by one or more unrelated companies that have a substantial business relationship with the Respondent; including a demonstration that any such guarantor company satisfies the financial test requirements of 40 C.F.R. Part 264.143(f); and/or
- f. a demonstration of sufficient financial resources to pay for the Work made by the Respondent, which shall consist of a demonstration that the Respondent satisfies the requirements of 40 C.F.R. Part 264.143(f).

84. Any and all financial assurance instruments provided pursuant to this Section shall be in form and substance satisfactory to EPA, determined in EPA's sole discretion. In the event that EPA determines at any time that the financial assurances provided pursuant to this Section (including, without limitation, the instrument(s) evidencing such assurances) are inadequate, Respondent shall, within 30 days of receipt of notice of EPA's determination, obtain and present to EPA for approval one of the other forms of financial assurance listed in Paragraph 72, above. In addition, if at any time EPA notifies Respondent that the anticipated cost of completing the Work has increased, then, within 30 days of such notification, Respondent shall obtain and present to EPA for approval a revised form of financial assurance (otherwise acceptable under this Section) that reflects such cost increase. Respondent's inability to demonstrate financial ability to complete the Work shall in no way excuse performance of any activities required under this Settlement Agreement.

85. If Respondent seeks to ensure completion of the Work through a guarantee pursuant to Subparagraph 72(e) or 72(f) of this Settlement Agreement, Respondent shall (i) demonstrate to



EPA's satisfaction that the guarantor satisfies the requirements of 40 C.F.R. Part 264.143(f); and (ii) resubmit sworn statements conveying the information required by 40 C.F.R. Part 264.143(f) annually, on the anniversary of the Effective Date or such other date as agreed by EPA, to EPA. For the purposes of this Settlement Agreement, wherever 40 C.F.R. Part 264.143(f) references "sum of current closure and post-closure costs estimates and the current plugging and abandonment costs estimates," the dollar amount to be used in the relevant financial test calculations shall be the current cost estimate of \$\_??\_ for the Work at the Site plus any other RCRA, CERCLA, TSCA, or other federal environmental obligations financially assured by the relevant Respondent or guarantor to EPA by means of passing a financial test.

86. If, after the Effective Date, Respondent can show that the estimated cost to complete the remaining Work has diminished below the amount set forth in Paragraph 72 of this Section, Respondent may, on any anniversary date of the Effective Date, or at any other time agreed to by the Parties, reduce the amount of the financial security provided under this Section to the estimated cost of the remaining Work to be performed. Respondent shall submit a proposal for such reduction to EPA, in accordance with the requirements of this Section, and may reduce the amount of the security after receiving written approval from EPA. In the event of a dispute, Respondent may seek dispute resolution pursuant to Section XV (Dispute Resolution). Respondent may reduce the amount of security in accordance with EPA's written decision resolving the dispute.

87. Respondent may change the form of financial assurance provided under this Section at any time, upon notice to and prior written approval by EPA, provided that EPA determines that the new form of assurance meets the requirements of this Section. In the event of a dispute, Respondent may change the form of the financial assurance only in accordance with the written decision resolving the dispute.

## **XXVII. MODIFICATIONS**

88. The OSC may make modifications to any plan or schedule or Statement of Work in writing or by oral direction. Any oral modification will be memorialized in writing by EPA promptly, but shall have as its effective date the date of the OSC's oral direction. Any other requirements of this Settlement Agreement may be modified in writing by mutual agreement of the parties.

89. If Respondent seeks permission to deviate from any approved work plan or schedule or Statement of Work, Respondent's Project Coordinator shall submit a written request to EPA for approval outlining the proposed modification and its basis. Respondent may not proceed with the requested deviation until receiving oral or written approval from the OSC pursuant to Paragraph 77.

90. No informal advice, guidance, suggestion, or comment by the OSC or other EPA representatives regarding reports, plans, specifications, schedules, or any other writing submitted by Respondent shall relieve Respondent of its obligation to obtain any formal approval required by this

Settlement Agreement, or to comply with all requirements of this Settlement Agreement, unless it is formally modified.

#### **XXVIII. ADDITIONAL REMOVAL ACTION**

91. If EPA determines that additional removal actions not included in an approved plan are necessary to protect public health, welfare, or the environment, EPA will notify Respondent of that determination. Unless otherwise stated by EPA, within 30 days of receipt of notice from EPA that additional removal actions are necessary to protect public health, welfare, or the environment, Respondent shall submit for approval by EPA a Work Plan for the additional removal actions. The plan shall conform to the applicable requirements of Section VIII (Work to Be Performed) of this Settlement Agreement. Upon EPA's approval of the plan pursuant to Section VIII, Respondent shall implement the plan for additional removal actions in accordance with the provisions and schedule contained therein. This Section does not alter or diminish the OSC's authority to make oral modifications to any plan or schedule pursuant to Section XXVII (Modifications).]

#### **XXIX. NOTICE OF COMPLETION OF WORK**

92. When EPA determines, after EPA's review of the Final Report, that all Work has been fully performed in accordance with this Settlement Agreement, with the exception of any continuing obligations required by this Settlement Agreement, including post-removal site controls, payment of Future Response Costs, or record retention, EPA will provide written notice to Respondent. If EPA determines that any such Work has not been completed in accordance with this Settlement Agreement, EPA will notify Respondent, provide a list of the deficiencies, and require that Respondent modify the Work Plan if appropriate in order to correct such deficiencies. Respondent shall implement the modified and approved Work Plan and shall submit a modified Final Report in accordance with the EPA notice. Failure by Respondent to implement the approved modified Work Plan shall be a violation of this Settlement Agreement.

#### **XXXI. INTEGRATION/APPENDICES**

93. This Settlement Agreement and its appendices constitute the final, complete and exclusive agreement and understanding among the Parties with respect to the settlement embodied in this Settlement Agreement. The parties acknowledge that there are no representations, agreements or understandings relating to the settlement other than those expressly contained in this Settlement Agreement. The following appendices are attached to and incorporated into this Settlement Agreement: \_\_\_\_\_. (Map, Action Memo? What else?)

#### **XXXII. EFFECTIVE DATE**

94. **[NOTE: Regions may insert specific practice and language.]** This Settlement Agreement shall be effective one (1) day after the Settlement Agreement is signed by the Regional Administrator or his/her delegatee.

The undersigned representative of the Respondent certifies that it is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the party(ies) it represents to this document.

Agreed this \_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_.

For Respondent \_\_\_\_\_

By \_\_\_\_\_

Title \_\_\_\_\_

**[NOTE: Use separate page for the following signature.]**

It is so ORDERED and Agreed this \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_.

BY: \_\_\_\_\_ DATE: \_\_\_\_\_

Shane Hitchcock, Chief  
Emergency Response and Removal Chief  
Region 4  
U.S. Environmental Protection Agency

EFFECTIVE DATE: \_\_\_\_\_

7/11/07  
Pm  
Russo

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 4  
Draft 7/18/07

IN THE MATTER OF:  
Fieldcrest Cannon Plant 7.  
Salisbury, Rowan County, North Carolina

FCS Urban Ministries, Inc.  
Respondent

ADMINISTRATIVE SETTLEMENT  
AGREEMENT AND ORDER ON  
CONSENT FOR REMOVAL ACTION

U.S. EPA Region 4  
CERCLA Docket No. \_\_\_\_\_

Proceeding Under Sections 104, 106(a), 107  
and 122 of the Comprehensive  
Environmental Response, Compensation,  
and Liability Act, as amended, 42 U.S.C. §§  
9604, 9606(a), 9607 and 9622



10780547

*X app  
off*

*unl  
w/ + dep -  
be consist  
X app yth*

# [TABLE OF CONTENTS]

I.	JURISDICTION AND GENERAL PROVISIONS .....	3
II.	PARTIES BOUND .....	4
III.	DEFINITIONS .....	4
IV.	FINDINGS OF FACT .....	7
V.	CONCLUSIONS OF LAW AND DETERMINATIONS .....	7
VI.	SETTLEMENT AGREEMENT AND ORDER .....	8
VII.	DESIGNATION OF CONTRACTOR, PROJECT COORDINATOR, AND ON-SCENE COORDINATOR .....	9
VIII.	WORK TO BE PERFORMED .....	10
IX.	SITE ACCESS .....	13
X.	ACCESS TO INFORMATION .....	14
XI.	RECORD RETENTION .....	15
XII.	COMPLIANCE WITH OTHER LAWS .....	16
XIII.	EMERGENCY RESPONSE AND NOTIFICATION OF RELEASES .....	16
XIV.	AUTHORITY OF ON-SCENE COORDINATOR .....	17
XV.	PAYMENT OF RESPONSE COSTS .....	17
[XVI.]	[DISPUTE RESOLUTION] .....	20
XVII.	FORCE MAJEURE .....	20
XVIII.	STIPULATED PENALTIES .....	21
XIX.	COVENANT NOT TO SUE BY EPA .....	23
XX.	RESERVATIONS OF RIGHTS BY EPA .....	24
XXI.	COVENANT NOT TO SUE BY RESPONDENTS .....	25
XXII.	OTHER CLAIMS .....	27
XXIII.	CONTRIBUTION .....	28
XXIV.	INDEMNIFICATION .....	29
XXV.	INSURANCE .....	29
XXVI.	FINANCIAL ASSURANCE .....	30
XXVII.	MODIFICATIONS .....	32
[XXVIII.]	[ADDITIONAL REMOVAL ACTIONS] .....	32
XXIX.	NOTICE OF COMPLETION OF WORK .....	32
[XXX.]	[PUBLIC COMMENT] .....	33
[____.]	[ATTORNEY GENERAL AUTHORITY] .....	33
XXXI.	INTEGRATION/APPENDICES .....	33
XXXII.	EFFECTIVE DATE .....	34

[NOTE: Appendices may also be listed in this Table of Contents.]

## **I. JURISDICTION AND GENERAL PROVISIONS**

1. This Administrative Settlement Agreement and Order on Consent ("Settlement Agreement") is entered into voluntarily by the United States Environmental Protection Agency ("EPA") and FCS Urban Ministries, Inc. ("Respondent"). This Settlement Agreement provides for the performance of a removal action by Respondent and the reimbursement of certain response costs incurred by the United States at or in connection with the "Fieldcrest Cannon Plant 7 Site" (the "Site") generally located at 400 North Boundary Street in Salisbury, Rowan County, North Carolina.

2. This Settlement Agreement is issued under the authority vested in the President of the United States by Sections 104, 106(a), 107 and 122 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. §§ 9604, 9606(a), 9607 and 9622, as amended ("CERCLA").

3. EPA has notified the State of North Carolina (the "State") of this action pursuant to Section 106(a) of CERCLA, 42 U.S.C. § 9606(a).

4. EPA and Respondent recognize that this Settlement Agreement has been negotiated in good faith and that the actions undertaken by Respondent in accordance with this Settlement Agreement ~~does~~ not constitute an admission of any liability. Respondent does not admit, and retains the right to controvert in any subsequent proceedings other than proceedings to implement or enforce this Settlement Agreement, the validity of the findings of facts, conclusions of law, and determinations in Sections IV and V of this Settlement Agreement. Respondent agrees to comply with and be bound by the terms of this Settlement Agreement and further agrees that it will not contest the basis or validity of this Settlement Agreement or its terms.

## **II. PARTIES BOUND**

5. This Settlement Agreement applies to and is binding upon EPA and upon Respondent and its successors and assigns. Any change in ownership or corporate status of a Respondent including, but not limited to, any transfer of assets or real or personal property shall not alter such Respondent's responsibilities under this Settlement Agreement.

6. Respondents are jointly and severally liable for carrying out all activities required by this Settlement Agreement. (Will add JFS Properties, Inc. to this AOC.)

7. Respondent shall ensure that its contractors, subcontractors, and representatives receive a copy of this Settlement Agreement and comply with this Settlement Agreement. Respondent shall be responsible for any noncompliance with this Settlement Agreement.

## **III. DEFINITIONS**



8. Unless otherwise expressly provided in this Settlement Agreement, terms used in this Settlement Agreement which are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to them in CERCLA or in such regulations. Whenever terms listed below are used in this Settlement Agreement or in the appendices attached hereto and incorporated hereunder, the following definitions shall apply:

a. "Action Memorandum" shall mean the EPA Action Memorandum relating to the Site, signed on \_\_\_\_\_, by the Regional Administrator, EPA Region 4, or his/her delegate, and all attachments thereto. The Action Memorandum is attached as Appendix \_\_\_\_.

b. "CERCLA" shall mean the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. §§ 9601, *et seq.*

c. "Day" shall mean a calendar day. In computing any period of time under this Settlement Agreement, where the last day would fall on a Saturday, Sunday, or Federal holiday, the period shall run until the close of business of the next working day.

d. "Effective Date" shall be the effective date of this Settlement Agreement as provided in Section ~~XXXII~~.

e. "EPA" shall mean the United States Environmental Protection Agency and any successor departments or agencies of the United States.

f. "North Carolina DENR" shall mean the North Carolina Department of Environment and Natural Resources and any successor departments or agencies of the State.

g. "Future Response Costs" shall mean all costs, including, but not limited to, direct and indirect costs, that the United States incurs in reviewing or developing plans, reports and other items pursuant to this Settlement Agreement, verifying the Work, or otherwise implementing, overseeing, or enforcing this Settlement Agreement, including but not limited to, payroll costs, contractor costs, travel costs, laboratory costs, the costs incurred pursuant to Paragraph 23 (costs and attorneys fees and any monies paid to secure access, including the amount of just compensation), Paragraph 33 (emergency response), and Paragraph 59 (work takeover). *beginning on the Effective Date of this Settlement Agreement*

h. "Interest" shall mean interest at the rate specified for interest on investments of the EPA Hazardous Substance Superfund established by 26 U.S.C. § 9507, compounded annually on October 1 of each year, in accordance with 42 U.S.C. § 9607(a). The applicable rate of interest shall be the rate in effect at the time the interest accrues. The rate of interest is subject to change on October 1 of each year.



i. "National Contingency Plan" or "NCP" shall mean the National Oil and Hazardous Substances Pollution Contingency Plan promulgated pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, codified at 40 C.F.R. Part 300, and any amendments thereto.

j. "Settlement Agreement" <sup>draft</sup> shall mean this Administrative Settlement Agreement and Order on Consent and all appendices attached hereto (listed in Section XXXI). In the event of conflict between this Settlement Agreement and any appendix, this Settlement Agreement shall control.

k. "Paragraph" shall mean a portion of this Settlement Agreement identified by an Arabic numeral.

l. "Parties" shall mean EPA and Respondent.

m. "Past Response Costs" shall mean all costs, including, but not limited to, direct and indirect costs, that the United States paid at or in connection with the Site ~~through~~ <sup>print</sup> [insert date of most recent cost update], ~~plus Interest~~ on all such costs through such date.]

<sup>in Electronic Doc, including interest</sup>  
n. "RCRA" shall mean the Solid Waste Disposal Act, as amended, 42 U.S.C. §§ 6901, *et seq.* (also known as the Resource Conservation and Recovery Act).

o. "Respondent" shall mean FSC Urban Ministries, Inc.

p. "Section" shall mean a portion of this Settlement Agreement identified by a Roman numeral.

q. "Site" or ~~"Facility"~~ shall mean the Fieldcrest Cannon Plant 7 Superfund Site, encompassing approximately 12 acres, located at around 400 North Boundary Street, Salisbury, Rowan County, North Carolina, and depicted generally on the map attached as Appendix     .

r. "State" shall mean the State of North Carolina.

<sup>handwritten?</sup>  
s. "Statement of Work" or "SOW" shall mean the statement of work for implementation of the removal action, as set forth in Appendix      to this Settlement Agreement, and any modifications made thereto in accordance with this Settlement Agreement. (Do you need this in an emergency removal or can the Respondents just follow your scope of work?)

<sup>Do you have to?</sup>  
t. "Waste Material" shall mean 1) any "hazardous substance" under Section 101(14) of CERCLA, 42 U.S.C. § 9601(14); 2) any pollutant or contaminant under Section 101(33) of CERCLA, 42 U.S.C. § 9601(33); 3) any "solid waste" under Section 1004(27) of RCRA, 42 U.S.C. § 6903(27); and 4) any hazardous substance as defined in Section 130A-310 of the North Carolina Inactive Hazardous Sites Response Act. (get official cite).



u. "Work" shall mean all activities Respondents <sup>are</sup> required to perform under this Settlement Agreement.

#### IV. FINDINGS OF FACT

9. The Site is an abandoned textile mill located at about 400 North Boundary Street, in Salisbury, Rowan County, North Carolina.

10. Respondent FSC Urban Ministries, Inc., a nonprofit corporation, is the current owner of the Site.

11. On Thursday, July 12, 2007, staff members at the Salisbury Waste Water Treatment Plant (WWTP) in Salisbury, North Carolina observed petroleum <sup>oil</sup> impacting the plant and reported the release to the Salisbury Fire Department ("Fire Department").

12. The Fire Department investigated the spill and concluded that the source of the oil release was the Fieldcrest Cannon Plant 7, where about two (2) inches of oil were observed on the floor of the facility's boiler room.

13. The boiler room contains a drain leading to an oil-water separator, located adjacent to the Tar Branch Creek, a tributary to Town Creek, which flows into the Yadkin River.

14. The Fire Department observed that the oil <sup>water</sup> separator, which was designed to separate the oil and water and discharge the water to the WWTP, was full of heating oil.

15. On Friday, July 13, 2007, WWTP staff members plugged the line that discharged from the oil-water separator to the WWTP and hired Shamrock Environmental Company to clean some oil-impacted areas within the WWTP. uh  
same  
du

16. The Fire Department continued to monitor the Site to ensure that the oil in the boiler room and the oil-water separator was contained. On Sunday, July 15, 2007, Fire Department personnel observed oil leaching from the soil around the oil-water separator and notified North Carolina's Department of Environmental and Natural Resources (DENR). In addition, they constructed two (2) underflow dams and deployed absorbant boom in the creek to contain the oil spill. mr.  
creek  
Tar Branch?

17. On DATE, DENR and the Fire Department contacted Joel Smithgall, identified as the Fieldcrest Cannon Plant 7 property manager, to advise him of the situation.

18. Mr. Smithgall said that he was authorized to make decisions on behalf of Site owner FCS Urban Ministries, Inc., but wanted time to get some estimates from local contractors.

18. DENR subsequently authorized the hiring of Shamrock Environmental to respond to the oil spill. Shamrock recovered more than 8,000 gallons of oil from the boiler room and oil-water separator.

19. On Monday, July 16, 2007, when oil was still observed leaching from the impacted soils along the bank of the Tar Branch Creek, the vicinity of the oil-water separator, DENR contacted the National Response Center (NRC) to report that approximately 8,000 gallons of Number 6 heating oil spilled from an above-ground storage tank that supplied the boiler room at the facility.

20. In response to the call to the NRC, EPA Region 4 immediately initiated an emergency response action, dispatching On-Scene Coordinator (OSC) Kenneth Rhame.

21. OSC Rhame arrived at the Site the same day to conduct a walk-through, accompanied by members of the Fire Department and DENR. He observed:

- a. Ongoing oil discharge to Tar Branch Creek;
- b. Between three (3) and four (4) feet of oil sludge in the above-ground storage tank that services the boiler room;
- c. Several drums of unknown material in different parts of the facility;
- d. Material that appeared to be asbestos removed from piping in various parts of the plant;
- e. An unsecured stockpile of PCB-contaminated soil which, according to the Fire Department, was excavated and stockpiled after a transformer oil spill; and
- f. Evidence of trespassers, including homeless people, accessing the unsecured facility.

22. On Tuesday, July 17, 2007, OSC Rhame met with the Fire Department and the contractor hired by Mr. Smithgall, Triad Environmental what??? What Doug Thomas ???



[NOTE: Because Findings of Fact are site-specific, no model language is provided. Facts should be presented concisely, accurately, and logically. Regions should include a discussion of the following points: identification of Respondents; site location and description; site history and operations; site ownership; enforcement history; general categories of Respondents' liability; past EPA and/or State activities and investigations; and conditions and data showing hazardous substances are present and releases or threats of releases exist. The Settlement Agreement need not contain a finding of endangerment if such a finding has been properly made and documented in an Action Memorandum (or Action Memorandum/Enforcement) (hereinafter referred to as an "Action Memorandum/Enforcement") in accordance with the "Superfund Removal Procedures Action Memorandum Guidance" (OSWER Directive No. 9360.3-01, December 1990). If such a finding has not been made in an Action Memorandum/Enforcement, this Section should include data showing that the releases or threats of releases may present an imminent and substantial endangerment, e.g., exposure routes, risk assessment, affected populations, environmental harm, potential for fire or explosion, or other dangers, and should be supported by an administrative record. If such a finding has been made in an Action Memorandum/Enforcement (and is not being made in the Settlement Agreement as well), the date of the signing of the Action Memorandum/Enforcement should be included as a finding, and the Action Memorandum/Enforcement should be attached and incorporated by reference into the Settlement Agreement.]

## V. CONCLUSIONS OF LAW AND DETERMINATIONS

23. Based on the Findings of Fact set forth above, and the Administrative Record supporting this removal action, EPA has determined that:

a. The Fieldcrest Cannon Plant 7 Site is a "facility" as defined by Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

b. The contamination found at the Site, as identified in the Findings of Fact above, includes hazardous substances, as defined by Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

c. The Respondent is a "person," as defined by Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

d. The Respondent is a responsible party under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), and is jointly and severally liable for performance of response action and for response costs incurred and to be incurred at the Site.



i. Respondent PCS Urban Ministries, Inc. is the current owner of the facility, as defined by Section 101(20) of CERCLA, 42 U.S.C. § 9601(20), and within the meaning of Section 107(a)(1) of CERCLA, 42 U.S.C. § 9607(a)(1).

e. The conditions described in Paragraphs ~~11, 16, 19, and 21~~<sup>21</sup> of the Findings of Fact above constitute an actual or threatened of "release" of a hazardous substance from the facility as defined by Section 101(22) of CERCLA, 42 U.S.C. § 9601(22). plsc  
4/1/99

f. The removal action required by this Settlement Agreement is necessary to protect the public health, welfare, or the environment and, if carried out in compliance with the terms of this Settlement Agreement, will be consistent with the NCP, as provided in Section 300.700(c)(3)(ii) of the NCP.

## **VI. SETTLEMENT AGREEMENT AND ORDER**

Based upon the foregoing Findings of Fact, Conclusions of Law, Determinations, and the Administrative Record for this Site, it is hereby Ordered and Agreed that Respondent shall comply with all provisions of this Settlement Agreement, including, but not limited to, all attachments to this Settlement Agreement and all documents incorporated by reference into this Settlement Agreement.

## **VII. DESIGNATION OF CONTRACTOR, PROJECT COORDINATOR, AND ON-SCENE COORDINATOR**

24. Respondent shall retain one (1) or more contractors to perform the Work and shall notify EPA of the name(s) and qualifications of such contractor(s) within five (5)? days of the Effective Date. Respondent shall also notify EPA of the name(s) and qualification(s) of any other contractor(s) or subcontractor(s) retained to perform the Work at least five (5) days prior to commencement of such Work. EPA retains the right to disapprove of any or all of the contractors and/or subcontractors retained by Respondents. If EPA disapproves of a selected contractor, Respondent shall retain a different contractor and shall notify EPA of that contractor's name and qualifications within five (5) days of EPA's disapproval. [NOTE: Unless the removal work is being performed under emergency circumstances or is non-complex, the proposed contractor must demonstrate compliance with ANSI/ASQC E-4-1994, "Specifications and Guidelines for Quality Systems for Environmental Data Collection and Environmental Technology Programs" (American National Standard, January 5, 1995), by submitting a copy of the proposed contractor's Quality Management Plan ("QMP"). The QMP should be prepared in accordance with "EPA Requirements for Quality Management Plans (QA/R-2)" (EPA/240/B0-1/002), or equivalent documentation as required by EPA. Any decision not to require submission of the contractor's QMP should be documented in a memorandum from the OSC and Regional QA personnel to the Site file.]

25. Within five (5) days after the Effective Date, Respondent shall designate a Project Coordinator, who shall be responsible for administration of all actions by Respondent required by this Settlement Agreement and shall submit to EPA the designated Project Coordinator's name, address, telephone number, and qualifications. To the greatest extent possible, the Project Coordinator shall be present on Site or readily available during Site work. EPA retains the right to disapprove of the designated Project Coordinator. If EPA disapproves of the designated Project Coordinator, Respondent shall retain a different Project Coordinator and shall notify EPA of that person's name, address, telephone number, and qualifications within ?? days following EPA's disapproval. Receipt by Respondent's Project Coordinator of any notice or communication from EPA relating to this Settlement Agreement shall constitute receipt by the Respondent.

26. EPA has designated Kenneth Rhame, of the Emergency Response and Removal Branch, Region 4, as its OSC. Except as otherwise provided in this Settlement Agreement, Respondent shall direct all submissions required by this Settlement Agreement to the OSC at ADDRESS???. [NOTE: Regions may specify method of delivery, e.g., by certified mail, express mail, or other delivery method.]

27. EPA and Respondent shall have the right, subject to Paragraph 11, to change their respective designated OSC or Project Coordinator. Respondent shall notify EPA five (5)    days before such a change is made. The initial notification may be made orally, but shall be promptly followed by a written notice.



### VIII. WORK TO BE PERFORMED

28. Respondent shall perform, at a minimum, the following removal activities described below.

- a. Develop and implement a Site Health and Safety Plan, including Site Emergency Contingency Plan;
- b. Secure Facility, <sup>and</sup> repair and/or replace damaged fencing, gates, and locks to prevent trespassers from entering property;
- c. Remove and properly dispose of oil-impacted soils between the creek and oil-water separator that are seeping into Tar Branch Creek, the tributary to town Creek;
- d. Properly close out tanks no longer in use in compliance with the Spill Prevention, Control and Countermeasures (SPCC) closure regulation;
- e. Clean oil-water separator and piping to prevent residual discharge;
- f. Secure, characterize and properly dispose of all containers on the Site;
- g. Stabilize, characterize, and properly dispose of contaminated soils on the Site;
- h. Conduct access agreement activities in order to obtain all necessary Site access agreements;
- i. Develop and implement an extent-of-contamination and post-excavation sampling plan to verify cleanup objectives have been achieved;
- j. Collect and analyze additional surface/subsurface soil samples for delineation, disposal, and confirmation purposes; and
- k. Restore areas to pre-existing condition to the extent practicable.

*the do you want?*  
 [NOTE: This Section should provide a brief description consistent with the Action Memorandum/Enforcement and should provide sufficient detail to permit Respondents to draft a Work Plan. Regions should ensure that the description is sufficiently broad and does not unintentionally limit removal actions in terms of hazardous substances to be addressed or to site boundaries if hazardous substances are present or migrate beyond boundaries to be addressed. Regions may append their own Statement of Work or Work Plan; if this situation occurs, modify Paragraph 15 as appropriate.]

#### 29. Work Plan and Implementation.

- a. Within five (5) <sup>4</sup> days after the Effective Date, Respondent shall submit to EPA for approval a draft Work Plan for performing the removal action generally described in Paragraph 14 above. The draft Work Plan shall provide a description of, and an expeditious schedule for, the actions required by this Settlement Agreement. [NOTE: EPA shall require preparation of a Quality Assurance Project Plan ("QAPP") as part of the Work Plan except in circumstances involving emergency or non-complex removal work. The QAPP



should be prepared in accordance with "EPA Requirements for Quality Assurance Project Plans (QA/R-5)" (EPA/240/B-01/003, March 2001), and "EPA Guidance for Quality Assurance Project Plans (QA/G-5)" (EPA/600/R-98/018, February 1998).] Ken, do you want this done since you are unsure about the contractor's qualifications?

b. EPA may approve, disapprove, require revisions to, or modify the draft Work Plan in whole or in part. If EPA requires revisions, Respondent shall submit a revised draft Work Plan within x days of receipt of EPA's notification of the required revisions. Respondent shall implement the Work Plan as approved in writing by EPA in accordance with the schedule approved by EPA. Once approved, or approved with modifications, the Work Plan, the schedule, and any subsequent modifications shall be incorporated into and become fully enforceable under this Settlement Agreement.

c. Respondent shall not commence any Work except in conformance with the terms of this Settlement Agreement. Respondent shall not commence implementation of the Work Plan developed hereunder until receiving written EPA approval pursuant to Paragraph 15(b).

30. Health and Safety Plan. Within X days after the Effective Date, Respondent shall submit for EPA review and comment a plan that ensures the protection of the public health and safety during performance of on-Site work under this Settlement Agreement. This plan shall be prepared in accordance with EPA's Standard Operating Safety Guide (PUB 9285.1-03, PB 92-963414, June 1992). In addition, the plan shall comply with all currently applicable Occupational Safety and Health Administration ("OSHA") regulations found at 29 C.F.R. Part 1910. If EPA determines that it is appropriate, the plan shall also include contingency planning. [NOTE: **Regions may provide more detail, e.g., SPCC, evacuation plans, etc.**] Respondent shall incorporate all changes to the plan recommended by EPA and shall implement the plan during the pendency of the removal action.

### 31. Quality Assurance and Sampling.

a. All sampling and analyses performed pursuant to this Settlement Agreement shall conform to EPA direction, approval, and guidance regarding sampling, quality assurance/quality control ("QA/QC"), data validation, and chain of custody procedures. Respondent shall ensure that the laboratory used to perform the analyses participates in a QA/QC program that complies with the appropriate EPA guidance. Respondent shall follow, as appropriate, "Quality Assurance/Quality Control Guidance for Removal Activities: Sampling QA/QC Plan and Data Validation Procedures" (OSWER Directive No. 9360.4-01, April 1, 1990), as guidance for QA/QC and sampling. [NOTE: **Regions should also check with Regional QA officers for standard operating procedures for QA/QC and sampling of soil, air, ecology, waste and water.**] Respondent shall only use laboratories that have a documented Quality System that complies with ANSI/ASQC E-4 1994, "Specifications and Guidelines for Quality Systems for Environmental Data Collection and Environmental Technology Programs" (American National Standard, January 5, 1995), and "EPA Requirements for Quality Management Plans



(QA/R-2) (EPA/240/B-01/002, March 2001)," or equivalent documentation as determined by EPA. EPA may consider laboratories accredited under the National Environmental Laboratory Accreditation Program ("NELAP") as meeting the Quality System requirements.

b. Upon request by EPA, Respondent shall have such a laboratory analyze samples submitted by EPA for QA monitoring. Respondent shall provide to EPA the QA/QC procedures followed by all sampling teams and laboratories performing data collection and/or analysis.

c. Upon request by EPA, Respondent shall allow EPA or its authorized representatives to take split and/or duplicate samples. Respondent shall notify EPA not less than X days in advance of any sample collection activity, unless shorter notice is agreed to by EPA. EPA shall have the right to take any additional samples that EPA deems necessary. Upon request, EPA shall allow Respondent to take split or duplicate samples of any samples it takes as part of its oversight of Respondent's implementation of the Work.

32. Post-Removal Site Control. In accordance with the Work Plan schedule, or as otherwise directed by EPA, Respondent shall submit a proposal for post-removal site control consistent with Section 300.415(l) of the NCP and OSWER Directive No. 9360.2-02. Upon EPA approval, Respondent shall implement such controls and shall provide EPA with documentation of all post-removal site control arrangements.

### 33. Reporting.

a. Respondent shall submit a written progress report to EPA concerning actions undertaken pursuant to this Settlement Agreement every seventh (7th)?? day after the date of receipt of EPA's approval of the Work Plan until termination of this Settlement Agreement, unless otherwise directed in writing by the OSC. These reports shall describe all significant developments during the preceding period, including the actions performed and any problems encountered, analytical data received during the reporting period, and the developments anticipated during the next reporting period, including a schedule of actions to be performed, anticipated problems, and planned resolutions of past or anticipated problems. **[NOTE: The frequency and content of these reports may be determined on a site-specific basis.]**

b. Respondent shall submit three (3)?? copies of all plans, reports or other submissions required by this Settlement Agreement or any approved work plan to the OSC. Upon request by EPA, Respondent shall submit such documents in electronic form.

c. Respondent, the owner of the Site, shall, at least 30 days prior to the conveyance of any interest in real property at the Site, give written notice to the transferee that the property is subject to this Settlement Agreement and written notice to EPA and the State of the proposed conveyance, including the name and address of the transferee. Respondent who owns the property at the Site also agrees to require that its successors comply with the immediately preceding sentence and Sections IX (Site Access) and X (Access to Information).



34. Final Report. Within 30? days after completion of all Work required by this Settlement Agreement, Respondent shall submit for EPA review and approval a final report summarizing the actions taken to comply with this Settlement Agreement. The final report shall conform, at a minimum, with the requirements set forth in Section 300.165 of the NCP entitled "OSC Reports." [NOTE: For removals that are more extensive, Regions may require compliance with "Superfund Removal Procedures: Removal Response Reporting - POLREPS and OSC Reports" (OSWER Directive No. 9360.3-03, June 1, 1994).] The final report shall include a good faith estimate of total costs or a statement of actual costs incurred in complying with the Settlement Agreement, a listing of quantities and types of materials removed off-Site or handled on-Site, a discussion of removal and disposal options considered for those materials, a listing of the ultimate destination(s) of those materials, a presentation of the analytical results of all sampling and analyses performed, and accompanying appendices containing all relevant documentation generated during the removal action (e.g., manifests, invoices, bills, contracts, and permits). The final report shall also include the following certification signed by a person who supervised or directed the preparation of that report:

"Under penalty of law, I certify that to the best of my knowledge, after appropriate inquiries of all relevant persons involved in the preparation of the report, the information submitted is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

### 35. Off-Site Shipments.

a. Respondent shall, prior to any off-Site shipment of Waste Material from the Site to an out-of-state waste management facility, provide written notification of such shipment of Waste Material to the appropriate state environmental official in the receiving facility's state and to the ~~On-Scene Coordinator~~. However, this notification requirement shall not apply to any off-Site shipments when the total volume of all such shipments will not exceed 10 cubic yards.

OSC  
i. Respondent shall include in the written notification the following information: 1) the name and location of the facility to which the Waste Material is to be shipped; 2) the type and quantity of the Waste Material to be shipped; 3) the expected schedule for the shipment of the Waste Material; and 4) the method of transportation. Respondent shall notify the state in which the planned receiving facility is located of major changes in the shipment plan, such as a decision to ship the Waste Material to another facility within the same state, or to a facility in another state.

ii. The identity of the receiving facility and state will be determined by Respondent following the award of the contract for the removal action. Respondent shall provide the information required by Paragraph 21(a) and 21(b) as soon as practicable after the award of the contract and before the Waste Material is actually shipped.



b. Before shipping any hazardous substances, pollutants, or contaminants from the Site to an off-site location, Respondent shall obtain EPA's certification that the proposed receiving facility is operating in compliance with the requirements of CERCLA Section 121(d)(3), 42 U.S.C. § 9621(d)(3), and 40 C.F.R. § 300.440. Respondent shall only send hazardous substances, pollutants, or contaminants from the Site to an off-site facility that complies with the requirements of the statutory provision and regulation cited in the preceding sentence.

### IX. SITE ACCESS

36. If the Site, or any other property where access <sup>is</sup> needed to implement this Settlement Agreement, is owned or controlled by the Respondent, ~~such~~ Respondent shall, commencing on the Effective Date, provide EPA and the State, and their representatives, including contractors, with access at all reasonable times to the Site, or such other property, for the purpose of conducting any activity related to this Settlement Agreement.

37. Where any action under this Settlement Agreement is to be performed in areas owned by or in possession of someone other than Respondent, Respondent shall use its best efforts to obtain all necessary access agreements within X days after the Effective Date, or as otherwise specified in writing by the OSC. Respondent shall immediately notify EPA if after using its best efforts it is unable to obtain such agreements. For purposes of this Paragraph, "best efforts" ~~for~~ includes the payment of reasonable sums of money in consideration of access. Respondent shall describe in writing its efforts to obtain access. EPA may then assist Respondent in gaining access, to the extent necessary to effectuate the response actions described in this Settlement Agreement, using such means as EPA deems appropriate. Respondent shall reimburse EPA for all costs and attorney's fees incurred by the United States in obtaining such access, in accordance with the procedures in Section XV (Payment of Response Costs).

*Ken?* [NOTE: If EPA determines that land/water use restrictions are needed on property owned by settling or non-settling landowners, or that a property interest running with the land (granting either a right of access or a right to enforce land/water use restrictions) should be acquired from settling or non-settling landowners, look to the model language included in Section IX of the Revised Model RD/RA Consent Decree (June 15, 2001, or more recent update).]

38. Notwithstanding any provision of this Settlement Agreement, EPA and the State retain all of ~~their~~ <sup>then</sup> access authorities and rights [if land/water use restrictions are included, insert "as well as all of its [their] rights to require land/water use restrictions"], including enforcement authorities related thereto, under CERCLA, RCRA, and any other applicable statutes or regulations.

### X. ACCESS TO INFORMATION

39. Respondent shall provide to EPA and the State, upon request, copies of all documents and information within its possession or control or that of its contractors or agents relating to

activities at the Site or to the implementation of this Settlement Agreement, including, but not limited to, sampling, analysis, chain of custody records, manifests, trucking logs, receipts, reports, sample traffic routing, correspondence, or other documents or information related to the Work. Respondent shall also make available to EPA and the State, for purposes of investigation, information gathering, or testimony, its employees, agents, or representatives with knowledge of relevant facts concerning the performance of the Work.

40. Respondent may assert business confidentiality claims covering part or all of the documents or information submitted to EPA and the State under this Settlement Agreement to the extent permitted by and in accordance with Section 104(e)(7) of CERCLA, 42 U.S.C. § 9604(e)(7), and 40 C.F.R. § 2.203(b). Documents or information determined to be confidential by EPA will be afforded the protection specified in 40 C.F.R. Part 2, Subpart B. If no claim of confidentiality accompanies documents or information when they are submitted to EPA and the State, or if EPA has notified Respondent that the documents or information are not confidential under the standards of Section 104(e)(7) of CERCLA or 40 C.F.R. Part 2, Subpart B, the public may be given access to such documents or information without further notice to Respondent.

41. Respondent may assert that certain documents, records, and other information are privileged under the attorney-client privilege or any other privilege recognized by federal law. If the Respondent asserts such a privilege in lieu of providing documents, it shall provide EPA and the State with the following: 1) the title of the document, record, or information; 2) the date of the document, record, or information; 3) the name and title of the author of the document, record, or information; 4) the name and title of each addressee and recipient; 5) a description of the contents of the document, record, or information; and 6) the privilege asserted by Respondent. However, no documents, reports or other information created or generated pursuant to the requirements of this Settlement Agreement shall be withheld on the grounds that they are privileged.

42. No claim of confidentiality shall be made with respect to any data, including, but not limited to, all sampling, analytical, monitoring, hydrogeologic, scientific, chemical, or engineering data, or any other documents or information evidencing conditions at or around the Site.

## **XI. RECORD RETENTION**

43. Until 10 years after Respondent's receipt of EPA's notification pursuant to Section XXIX (Notice of Completion of Work), Respondent shall preserve and retain all non-identical copies of records and documents (including records or documents in electronic form) now in its possession or control or which come into its possession or control that relate in any manner to the performance of the Work or the liability of any person under CERCLA with respect to the Site, regardless of any corporate retention policy to the contrary. Until 10 years after Respondent's receipt of EPA's notification pursuant to Section XXIX (Notice of Completion of Work), Respondent shall also instruct its contractors and agents to preserve all documents, records, and information of whatever kind, nature or description relating to performance of the Work.



44. At the conclusion of this document retention period, Respondent shall notify EPA and the State at least 90 days prior to the destruction of any such records or documents, and, upon request by EPA or the State, Respondent shall deliver any such records or documents to EPA or the State. Respondent may assert that certain documents, records and other information are privileged under the attorney-client privilege or any other privilege recognized by federal law. If Respondent asserts such a privilege, it shall provide EPA or the State with the following: 1) the title of the document, record, or information; 2) the date of the document, record, or information; 3) the name and title of the author of the document, record, or information; 4) the name and title of each addressee and recipient; 5) a description of the subject of the document, record, or information; and 6) the privilege asserted by Respondent. However, no documents, reports or other information created or generated pursuant to the requirements of this Settlement Agreement shall be withheld on the grounds that they are privileged.

42. Respondent hereby certifies that to the best of its knowledge and belief, after thorough inquiry, it has not altered, mutilated, discarded, destroyed or otherwise disposed of any records, documents or other information (other than identical copies) relating to its potential liability regarding the Site since notification of potential liability by EPA or the State ~~or the filing of suit against it regarding the Site~~ and that it has fully complied with any and all EPA requests for information pursuant to Sections 104(e) and 122(e) of CERCLA, 42 U.S.C. §§ 9604(e) and 9622(e), and Section 3007 of RCRA, 42 U.S.C. § 6927. *- not relevant*

## **XII. COMPLIANCE WITH OTHER LAWS**

43. Respondent shall perform all actions required pursuant to this Settlement Agreement in accordance with all applicable state and federal laws and regulations except as provided in Section 121(e) of CERCLA, 42 U.S.C. § 6921(e), and 40 C.F.R. §§ 300.400(e) and 300.415(j). In accordance with 40 C.F.R. § 300.415(j), all on-Site actions required pursuant to this Settlement Agreement shall, to the extent practicable, as determined by EPA, considering the exigencies of the situation, attain applicable or relevant and appropriate requirements ("ARARs") under federal environmental or state environmental or facility siting laws. Respondent shall identify ARARs in the work plans subject to EPA approval. DO YOU WANT THIS LAST SENTENCE?

*if it includes*



### XIII. EMERGENCY RESPONSE AND NOTIFICATION OF RELEASES

44. In the event of any action or occurrence during performance of the Work which causes or threatens a release of Waste Material from the Site that constitutes an emergency situation or may present an immediate threat to public health or welfare or the environment, Respondent shall immediately take all appropriate action. Respondent shall take these actions in accordance with all applicable provisions of this Settlement Agreement, including, but not limited to, the Health and Safety Plan, in order to prevent, abate or minimize such release or endangerment caused or threatened by the release. Respondent shall also immediately notify the OSC or, in the event of his/her unavailability, the Regional Duty Officer, Emergency Response and Removal Branch, EPA Region 4, at 404-562-8700, of the incident or Site conditions. In the event that Respondent fails to take appropriate response action as required by this Paragraph, and EPA takes such action instead, Respondent shall reimburse EPA all costs of the response action not inconsistent with the NCP pursuant to Section XV (Payment of Response Costs).

*Residue  
pays for it*

45. In addition, in the event of any release of a hazardous substance from the Site, Respondent shall immediately notify the OSC at YOUR PHONE NUMBER. If unavailable, Respondent shall notify the duty OSC at 404-562-8700 or the National Response Center at 800-424-8802. Respondent shall submit a written report to EPA within seven (7) days after each release, setting forth the events that occurred and the measures taken or to be taken to mitigate any release or endangerment caused or threatened by the release and to prevent the reoccurrence of such a release. This reporting requirement is in addition to, and not in lieu of, reporting under Section 103(c) of CERCLA, 42 U.S.C. § 9603(c), and Section 304 of the Emergency Planning and Community Right-To-Know Act of 1986, 42 U.S.C. § 11004, *et seq.*

*Will name a person with phone*

### XIV. AUTHORITY OF ON-SCENE COORDINATOR

46. The OSC shall be responsible for overseeing Respondent's implementation of this Settlement Agreement. The OSC shall have the authority vested in an OSC by the NCP, including the authority to halt, conduct, or direct any Work required by this Settlement Agreement, or to direct any other removal action undertaken at the Site. Absence of the OSC from the Site shall not be cause for stoppage of work unless specifically directed by the OSC.

### XV. PAYMENT OF RESPONSE COSTS

#### [47. Payment for Past Response Costs.]

a. Within 30 days after the Effective Date, Respondents shall pay to EPA \$ \_\_\_ for Past Response Costs. [NOTE: The following language should be used if the payment amount is above \$10,000. Regional attorneys should consult with the Comptroller's Office in the Region to determine if more specific EFT instructions should be included.] Payment shall be made to EPA by Electronic Funds Transfer ("EFT") in accordance with current EFT procedures to be provided to Respondents by EPA Region \_\_\_, and shall be accompanied by a statement identifying the name and address of the party(ies) making payment, the Site name, the



EPA Region and Site/Spill ID Number \_\_\_\_\_, and the EPA docket number for this action.]

**[NOTE: The following language may be used if the payment amount is below \$10,000.]**

Payment shall be made by certified or cashier's check made payable to "EPA Hazardous Substance Superfund." Each check, or a letter accompanying each check, shall identify the name and address of the party(ies) making payment, the Site name, the EPA Region and Site/Spill ID Number \_\_\_\_\_, and the EPA docket number for this action, and shall be sent to:

EPA Superfund

[Insert Regional Superfund lockbox number and address]

b. At the time of payment, Respondents shall send notice that such payment has been made by email to [acctsreceivable.cinwd@epa.gov](mailto:acctsreceivable.cinwd@epa.gov), and to:

EPA Cincinnati Finance Office  
26 Martin Luther King Drive  
Cincinnati, Ohio 45268

48. Payments for Future Response Costs.

a. Respondent shall pay EPA all Future Response Costs not inconsistent with the NCP. On a periodic basis, EPA will send Respondent a bill requiring payment that includes a ~~which includes direct and indirect costs incurred by EPA and its contractors. Also insert name of DOJ-prepared cost summary, which would reflect costs incurred by DOJ and its contractors, if any.~~ Respondent shall make all payments within 30 days of receipt of each bill requiring payment, except as otherwise provided in Paragraph 39 of this Settlement Agreement.

b. Respondent shall make all payments required by this Paragraph by a certified or cashier's check or checks made payable to "EPA Hazardous Substance Superfund," referencing the name and address of the party(ies) making payment and EPA Site/Spill ID number \_\_\_\_\_. Respondents shall send the check(s) to:

[Insert appropriate Regional Superfund Lockbox number and address]

**[NOTE: Regions may substitute EFT payment instructions.]**

c. At the time of payment, Respondent shall send notice that payment has been made to by email to [acctsreceivable.cinwd@epa.gov](mailto:acctsreceivable.cinwd@epa.gov), and to:

EPA Cincinnati Finance Office  
26 Martin Luther King Drive  
Cincinnati, Ohio 45268

At the time of payment, Respondent shall also send notice that payment has been made to Paula V. Batchelor, U.S. EPA, Region 5, Superfund Enforcement & Response (Enforcement) Manager, 6110 North St, SW, Atlanta GA 30333.

Superfund Cost Recovery Process  
Funding and On-line System (SCORPUS) Report

- Paul

- Paul



49. In the event that the payment for Past Response Costs is not made within 30 days<sup>25</sup> of the Effective Date, or the payments for Future Response Costs are not made within 30 days<sup>25</sup> of Respondents' receipt of a bill, Respondent shall pay Interest on the unpaid balance. The Interest on Past Response Costs shall begin to accrue on the Effective Date and shall continue to accrue until the date of payment. The Interest on Future Response Costs shall begin to accrue on the date of the bill and shall continue to accrue until the date of payment. Payments of Interest made under this Paragraph shall be in addition to such other remedies or sanctions available to the United States by virtue of Respondent's failure to make timely payments under this Section, including but not limited to, payment of stipulated penalties pursuant to Section XVIII.

50. Respondent may contest payment of any Future Response Costs billed under Paragraph 37 if it determines that EPA has made a mathematical error, or if it believes EPA incurred excess costs as a direct result of an EPA action that was inconsistent with the NCP. Such objection shall be made in writing within 30 days of receipt of the bill and must be sent to the OSC. Any such objection shall specifically identify the contested Future Response Costs and the basis for objection. In the event of an objection, Respondent shall within the 30-day period pay all uncontested Future Response Costs to EPA in the manner described in Paragraph 37. Simultaneously, Respondent shall establish an interest-bearing escrow account in a federally-insured bank duly chartered in the State of North Carolina and remit to that escrow account funds equivalent to the amount of the contested Future Response Costs. Respondent shall send to the EPA OSC a copy of the transmittal letter and check paying the uncontested Future Response Costs, and a copy of the correspondence that establishes and funds the escrow account, including, but not limited to, information containing the identity of the bank and bank account under which the escrow account is established as well as a bank statement showing the initial balance of the escrow account. Simultaneously with establishment of the escrow account, Respondent shall initiate the Dispute Resolution procedures in Section XVI (Dispute Resolution). If EPA prevails in the dispute, within 5 days of the resolution of the dispute, Respondent shall pay the sums due (with accrued interest) to EPA in the manner described in Paragraph 37. If Respondents prevail<sup>25</sup> concerning any aspect of the contested costs, Respondent shall pay that portion of the costs (plus associated accrued interest) for which they did not prevail to EPA in the manner described in Paragraph 37. Respondent shall be disbursed any balance of the escrow account. The dispute resolution procedures set forth in this Paragraph in conjunction with the procedures set forth in Section XVI (Dispute Resolution) shall be the exclusive mechanisms for resolving disputes regarding Respondents' obligation to reimburse EPA for its Future Response Costs.

#### [XVI. DISPUTE RESOLUTION]<sup>1</sup>

[ 51. Unless otherwise expressly provided for in this Settlement Agreement, the dispute resolution procedures of this Section shall be the exclusive mechanism for resolving disputes

---

<sup>1</sup> If Section XVI is not included, conforming changes are needed to Paragraphs 39, 50, 52, 54, 59, 75 and 76.

arising under this Settlement Agreement. The Parties shall attempt to resolve any disagreements concerning this Settlement Agreement expeditiously and informally.

52. If Respondent objects to any EPA action taken pursuant to this Settlement Agreement, including billings for Future Response Costs, it shall notify EPA in writing of its objection(s) within 30 days of such action, unless the objection(s) has/have been resolved informally. EPA and Respondent shall have 30 days from EPA's receipt of Respondent's written objection(s) to resolve the dispute through formal negotiations (the "Negotiation Period"). The Negotiation Period may be extended at the sole discretion of EPA.

53. Any agreement reached by the parties pursuant to this Section shall be in writing and shall, upon signature by both parties, be incorporated into and become an enforceable part of this Settlement Agreement. If the Parties are unable to reach an agreement within the Negotiation Period, an EPA management official at the Chief, Emergency Response and Removal Branch level or higher will issue a written decision on the dispute to Respondent. EPA's decision shall be incorporated into and become an enforceable part of this Settlement Agreement. Respondent's obligations under this Settlement Agreement shall not be tolled by submission of any objection for dispute resolution under this Section. Following resolution of the dispute, as provided by this Section, Respondent shall fulfill the requirement that was the subject of the dispute in accordance with the agreement reached or with EPA's decision, whichever occurs first.

## **XVII. FORCE MAJEURE**

54. Respondent agrees to perform all requirements of this Settlement Agreement within the time limits established under this Settlement Agreement, unless the performance is delayed by a *force majeure*. For purposes of this Settlement Agreement, a *force majeure* is defined as any event arising from causes beyond the control of Respondent, or of any entity controlled by Respondent, including but not limited to its contractors and subcontractors, which delays or prevents performance of any obligation under this Settlement Agreement despite Respondent's best efforts to fulfill the obligation. *Force majeure* does not include financial inability to complete the work or increased cost of performance.

55. If any event occurs or has occurred that may delay the performance of any obligation under this Settlement Agreement, whether or not caused by a *force majeure* event, Respondent shall notify EPA orally within five (5)??? days of when Respondent first knew that the event might cause a delay. Within five (5)??? days thereafter, Respondent shall provide to EPA in writing an explanation and description of the reasons for the delay; the anticipated duration of the delay; all actions taken or to be taken to prevent or minimize the delay; a schedule for implementation of any measures to be taken to prevent or mitigate the delay or the effect of the delay; Respondent's rationale for attributing such delay to a *force majeure* event if they intend to assert such a claim; and a statement as to whether, in the opinion of Respondent, such event may cause or contribute to an endangerment to public health, welfare or the environment. Failure to comply with the above requirements shall preclude Respondent from asserting any claim of *force majeure* for that event for the period of time of such failure to comply and for any additional delay caused by such failure.



56. If EPA agrees that the delay or anticipated delay is attributable to a *force majeure* event, the time for performance of the obligations under this Settlement Agreement that are affected by the *force majeure* event will be extended by EPA for such time as is necessary to complete those obligations. An extension of the time for performance of the obligations affected by the *force majeure* event shall not, of itself, extend the time for performance of any other obligation. If EPA does not agree that the delay or anticipated delay has been or will be caused by a *force majeure* event, EPA will notify Respondent in writing of its decision. If EPA agrees that the delay is attributable to a *force majeure* event, EPA will notify Respondent in writing of the length of the extension, if any, for performance of the obligations affected by the *force majeure* event.

### **XVIII. STIPULATED PENALTIES**

57. Respondent shall be liable to EPA for stipulated penalties in the amounts set forth in Paragraphs 47 and 48 for failure to comply with the requirements of this Settlement Agreement specified below, unless excused under Section XVII (*Force Majeure*). "Compliance" by Respondent shall include completion of the activities under this Settlement Agreement or any work plan or other plan approved under this Settlement Agreement identified below in accordance with all applicable requirements of law, this Settlement Agreement, [the SOW,] and any plans or other documents approved by EPA pursuant to this Settlement Agreement and within the specified time schedules established by and approved under this Settlement Agreement.

#### **58. Stipulated Penalty Amounts - Work.**

a. The following stipulated penalties shall accrue per violation per day for any noncompliance identified in Paragraph 47(b): (This are just suggested amounts from another AOC)

<u>Penalty Per Violation Per Day</u>	<u>Period of Noncompliance</u>
\$ 575.00	1st through 14th day
\$1,500.00	15th through 30th day
\$3,000.00	31st day and beyond

#### **b. Compliance Milestones**

[List violations or compliance milestones, including due dates for payments]

59. Stipulated Penalty Amounts - Reports. The following stipulated penalties shall accrue per violation per day for failure to submit timely or adequate reports [or other written documents] pursuant to Paragraphs \_\_\_\_\_ :

<u>Penalty Per Violation Per Day</u>	<u>Period of Noncompliance</u>
\$ 275.00	1st through 14th day
\$ 625.00	15th through 30th day
\$ 1,250.00	31st day and beyond



**[NOTE: If Paragraph 59 (Work Takeover) is included, insert the following paragraph.]**

60. In the event that EPA assumes performance of a portion or all of the Work pursuant to Paragraph 59 of Section XX, Respondents shall be liable for a stipulated penalty in the amount of \$100,000. *This penalty is in addition to a penalty pursuant to Paragraph 52.*

61. All penalties shall begin to accrue on the day after the complete performance is due or the day a violation occurs, and shall continue to accrue through the final day of the correction of the noncompliance or completion of the activity. However, stipulated penalties shall not accrue: 1) with respect to a deficient submission under Section VIII (Work to be Performed), during the period, if any, beginning on the 31st day after EPA's receipt of such submission until the date that EPA notifies Respondents of any deficiency; and 2) with respect to a decision by the EPA Management Official at the [insert Region-specific] level or higher, under Paragraph 42 of Section XVI (Dispute Resolution), during the period, if any, beginning on the 21st day after the Negotiation Period begins until the date that the EPA management official issues a final decision regarding such dispute. Nothing in this Settlement Agreement shall prevent the simultaneous accrual of separate penalties for separate violations of this Settlement Agreement.

62. Following EPA's determination that Respondent has failed to comply with a requirement of this Settlement Agreement, EPA may give Respondent written notification of the failure and describe the noncompliance. EPA may send Respondent a written demand for payment of the penalties. However, penalties shall accrue as provided in the preceding Paragraph regardless of whether EPA has notified Respondent of a violation.

63. All penalties accruing under this Section shall be due and payable to EPA within 30 days of Respondent's receipt from EPA of a demand for payment of the penalties, unless Respondent invoke the dispute resolution procedures under Section XVI (Dispute Resolution). All payments to EPA under this Section shall be paid by certified or cashier's check(s) made payable to "EPA Hazardous Substances Superfund," shall be mailed to [insert the Regional Lockbox number and address], shall indicate that the payment is for stipulated penalties, and shall reference the EPA Region and Site/Spill ID Number       , the EPA Docket Number       , and the name and address of the party(ies) making payment. Copies of check(s) paid pursuant to this Section, and any accompanying transmittal letter(s), shall be sent to EPA as provided in Paragraph 36.

64. The payment of penalties shall not alter in any way Respondent's obligation to complete performance of the Work required under this Settlement Agreement.

65. Penalties shall continue to accrue during any dispute resolution period, but need not be paid until 15 days after the dispute is resolved by agreement or by receipt of EPA's decision.

66. If Respondent fails to pay stipulated penalties when due, EPA may institute proceedings to collect the penalties, as well as Interest. Respondent shall pay Interest on the unpaid balance, which shall begin to accrue on the date of demand made pursuant to Paragraph 52. Nothing in this Settlement Agreement shall be construed as prohibiting, altering, or in any way

*Check 1  
Emergency  
Response  
Team  
1st  
Arrival*



limiting the ability of EPA to seek any other remedies or sanctions available by virtue of Respondent's violation of this Settlement Agreement or of the statutes and regulations upon which it is based, including, but not limited to, penalties pursuant to Sections 106(b) and 122(l) of CERCLA, 42 U.S.C. §§ 9606(b) and 9622(l), and punitive damages pursuant to Section 107(c)(3) of CERCLA, 42 U.S.C. § 9607(c)(3). Provided, however, that EPA shall not seek civil penalties pursuant to Section 106(b) or 122(l) of CERCLA or punitive damages pursuant to Section 107(c)(3) of CERCLA for any violation for which a stipulated penalty is provided in this Section, except in the case of a willful violation of this Settlement Agreement [if Paragraph 59 (Work Takeover) is included, insert, "or in the event that EPA assumes performance of a portion or all of the Work pursuant to Section XX, Paragraph 59."]. Notwithstanding any other provision of this Section, EPA may, in its unreviewable discretion, waive any portion of stipulated penalties that have accrued pursuant to this Settlement Agreement.

### **XIX. COVENANT NOT TO SUE BY EPA**

**[NOTE: Use Paragraph 56, Alternative 1, if the Settlement Agreement requires payment of Past Response Costs and Future Response Costs.]**

67. **[Alternative 1]** In consideration of the actions that will be performed and the payments that will be made by Respondent under the terms of this Settlement Agreement, and except as otherwise specifically provided in this Settlement Agreement, EPA covenants not to sue or to take administrative action against Respondent pursuant to Sections 106 and 107(a) of CERCLA, 42 U.S.C. §§ 9606 and 9607(a), for the Work, Past Response Costs, and Future Response Costs. This covenant not to sue shall take effect upon receipt by EPA of the Past Response Costs due under Section XV of this Settlement Agreement and any Interest or Stipulated Penalties due for failure to pay Past Response Costs as required by Sections XV and XVIII of this Settlement Agreement. This covenant not to sue is conditioned upon the complete and satisfactory performance by Respondent of its obligations under this Settlement Agreement, including, but not limited to, payment of Future Response Costs pursuant to Section XV. This covenant not to sue extends only to Respondent and does not extend to any other person.

**[NOTE: Use Paragraph 56, Alternative 2, if the Settlement Agreement requires payment of Future Response Costs only.] - or**

56. **[Alternative 2]** In consideration of the actions that will be performed and the payments that will be made by Respondent under the terms of this Settlement Agreement, and except as otherwise specifically provided in this Settlement Agreement, EPA covenants not to sue or to take administrative action against Respondent pursuant to Sections 106 and 107(a) of CERCLA, 42 U.S.C. §§ 9606 and 9607(a), for the Work and Future Response Costs. This covenant not to sue shall take effect upon the Effective Date and is conditioned upon the complete and satisfactory performance by Respondent of all obligations under this Settlement Agreement, including, but not limited to, payment of Future Response Costs pursuant to Section XV. This covenant not to sue extends only to Respondent and does not extend to any other person.

## **XX. RESERVATIONS OF RIGHTS BY EPA**

68. Except as specifically provided in this Settlement Agreement, nothing in this Settlement Agreement shall limit the power and authority of EPA or the United States to take, direct, or order all actions necessary to protect public health, welfare, or the environment or to prevent, abate, or minimize an actual or threatened release of hazardous substances, pollutants or contaminants, or hazardous or solid waste on, at, or from the Site. Further, nothing in this Settlement Agreement shall prevent EPA from seeking legal or equitable relief to enforce the terms of this Settlement Agreement, from taking other legal or equitable action as it deems appropriate and necessary, or from requiring Respondent in the future to perform additional activities pursuant to CERCLA or any other applicable law.

69. The covenant not to sue set forth in Section XIX above does not pertain to any matters other than those expressly identified therein. EPA reserves, and this Settlement Agreement is without prejudice to, all rights against Respondent with respect to all other matters, including, but not limited to:

- a. claims based on a failure by Respondent to meet a requirement of this Settlement Agreement;
- b. liability for costs not included within the definitions of Past Response Costs or Future Response Costs;
- c. liability for performance of response action other than the Work;
- d. criminal liability;
- e. liability for damages for injury to, destruction of, or loss of natural resources, and for the costs of any natural resource damage assessments;
- f. liability arising from the past, present, or future disposal, release or threat of release of Waste Materials outside of the Site; and
- g. liability for costs incurred or to be incurred by the Agency for Toxic Substances and Disease Registry related to the Site.

70. Work Takeover. In the event EPA determines that Respondent has ceased implementation of any portion of the Work, ~~are~~ <sup>is</sup> seriously or repeatedly deficient or late in its performance of the Work, or ~~are~~ <sup>is</sup> implementing the Work in a manner which may cause an endangerment to human health or the environment, EPA may assume the performance of all or any portion of the Work as EPA determines necessary. Respondent may invoke the procedures set forth in Section XVI (Dispute Resolution) to dispute EPA's determination that takeover of the Work is warranted under this Paragraph. Costs incurred by the United States in performing the Work pursuant to this Paragraph shall be considered Future Response Costs that Respondent shall



pay pursuant to Section XV (Payment of Response Costs). Notwithstanding any other provision of this Settlement Agreement, EPA retains all authority and reserves all rights to take any and all response actions authorized by law.] *ec*

## **XXI. COVENANT NOT TO SUE BY RESPONDENTS**

71. Respondent covenant *ec* not to sue and agree not to assert any claims or causes of action against the United States, or its contractors or employees, with respect to the Work, Past Response Costs, Future Response Costs, or this Settlement Agreement, including, but not limited to:

a. any direct or indirect claim for reimbursement from the Hazardous Substance Superfund established by 26 U.S.C. § 9507, based on Sections 106(b)(2), 107, 111, 112, or 113 of CERCLA, 42 U.S.C. §§ 9606(b)(2), 9607, 9611, 9612, or 9613, or any other provision of law;

b. any claim arising out of response actions at or in connection with the Site, including any claim under the United States Constitution, the North Carolina Constitution, the Tucker Act, 28 U.S.C. § 1491, the Equal Access to Justice Act, 28 U.S.C. § 2412, as amended, or at common law; or

c. any claim against the United States pursuant to Sections 107 and 113 of CERCLA, 42 U.S.C. §§ 9607 and 9613, relating to the Work, Past Response Costs, or Future Response Costs.

These covenants not to sue shall not apply in the event the United States brings a cause of action or issues an order pursuant to the reservations set forth in Paragraphs 58 (b), (c), and (e) - (g), but only to the extent that Respondent's claims arise from the same response action, response costs, or damages that the United States is seeking pursuant to the applicable reservation.

72. Nothing in this Agreement shall be deemed to constitute approval or preauthorization of a claim within the meaning of Section 111 of CERCLA, 42 U.S.C. § 9611, or 40 C.F.R. § 300.700(d).

**[NOTE: Insert the following paragraph if remedial action is anticipated at the Site.] DO YOU THINK THIS IS POSSIBLE?**

[\_\_\_. Respondent agreeS not to seek judicial review of the final rule listing the Site on the NPL based on a claim that changed site conditions that resulted from the performance of the Work in any way affected the basis for listing the Site.]

**[NOTE: Insert the following waiver in Settlement Agreements that involve Sites that are not listed as final on the National Priorities List.]<sup>2</sup>**

73. Respondent agrees not to assert any claims and to waive all claims or causes of action that it may have for all matters relating to the Site, including for contribution, against any person where the person's liability to Respondent with respect to the Site is based solely on having arranged for disposal or treatment, or for transport for disposal or treatment, of hazardous substances at the Site, or having accepted for transport for disposal or treatment of hazardous substances at the Site, if all or part of the disposal, treatment, or transport occurred before April 1, 2001, and the total amount of material containing hazardous substances contributed by such person to the Site was less than 110 gallons of liquid materials or 200 pounds of solid materials.

74. The waiver in Paragraph 62 shall not apply with respect to any defense, claim, or cause of action that a Respondent may have against any person meeting the above criteria if such person asserts a claim or cause of action relating to the Site against such Respondent. This waiver also shall not apply to any claim or cause of action against any person meeting the above criteria if EPA determines:

a. that such person has failed to comply with any EPA requests for information or administrative subpoenas issued pursuant to Section 104(e) or 122(e) of CERCLA, 42 U.S.C. §§ 9604(e) or 9622(e), or Section 3007 of the Solid Waste Disposal Act (also known as the Resource Conservation and Recovery Act or "RCRA"), 42 U.S.C. § 6972, or has impeded or is impeding, through action or inaction, the performance of a response action or natural resource restoration with respect to the Site, or has been convicted of a criminal violation for the conduct to which this waiver would apply and that conviction has not been vitiated on appeal or otherwise; or

b. that the materials containing hazardous substances contributed to the Site by such person have contributed significantly, or could contribute significantly, either individually or in the aggregate, to the cost of response action or natural resource restoration at the Site.

## **XXII. OTHER CLAIMS**

75. By issuance of this Settlement Agreement, the United States and EPA assume no liability for injuries or damages to persons or property resulting from any acts or omissions of Respondent. The United States or EPA shall not be deemed a party to any contract entered into by Respondent or its directors, officers, employees, agents, successors, representatives, assigns, contractors, or consultants in carrying out actions pursuant to this Settlement Agreement.

76. Except as expressly provided in Section 2 (Covenant not to sue by Respondent) and Section XIX (Covenant Not to Sue by EPA), nothing in this Settlement Agreement constitutes a satisfaction of or release from any claim or cause of action against Respondent or any person not a party to this Settlement Agreement, for any liability such person may have under CERCLA, other statutes, or common law, including but not limited to any claims of the United States for costs, damages and interest under Sections 106 and 107 of CERCLA, 42 U.S.C. §§ 9606 and 9607.

77. No action or decision by EPA pursuant to this Settlement Agreement shall give rise to any right to judicial review, except as set forth in Section 113(h) of CERCLA, 42 U.S.C. § 9613(h).

### **XXIII. CONTRIBUTION**

78.a. The Parties agree that this Settlement Agreement constitutes an administrative settlement for purposes of Section 113(f)(2) of CERCLA, 42 U.S.C. § 9613(f)(2), and that Respondent is entitled, as of the Effective Date, to protection from contribution actions or claims as provided by Sections 113(f)(2) and 122(h)(4) of CERCLA, 42 U.S.C. §§ 9613(f)(2) and 9622(h)(4), for "matters addressed" in this Settlement Agreement. The "matters addressed" in this Settlement Agreement are the Work, Past Response Costs, and Future Response Costs.

b. The Parties agree that this Settlement Agreement constitutes an administrative settlement for purposes of Section 113(f)(3)(B) of CERCLA, 42 U.S.C. § 9613(f)(3)(B), pursuant to which Respondent has, as of the Effective Date, resolved their liability to the United States for the Work, Past Response Costs, and Future Response Costs.<sup>3</sup> J

c. ~~Insert if applicable.~~ Except as provided in Section XXI, Paragraph[s] \_\_, of this Settlement Agreement, nothing in this Settlement Agreement precludes the United States or Respondent from asserting any claims, causes of action, or demands for indemnification, contribution, or cost recovery against any persons not parties to this Settlement Agreement. Nothing in this Settlement Agreement diminishes the right of the United States, pursuant to Section 113(f)(2)-(3) of CERCLA, 42 U.S.C. § 9613(f)(2)-(3), to pursue any such persons to obtain additional response costs or response action and to enter into settlements that give rise to contribution protection pursuant to Section 113(f)(2).

---

<sup>3</sup> In most cases the liability resolved, for purposes of Section 113(f)(3)(B), will be the same as the liability covered by the covenant not to sue and the "matters addressed," i.e., the Work required by the Settlement Agreement and the Future and/or Past Response Costs, as applicable. However, there may be instances in which EPA and Respondents intend to resolve other liability, in which case the Region should describe the liability resolved in some other fashion. For example, Respondents may have performed response action or paid response costs prior to the Effective Date, which work or costs EPA believes should be recognized as liability "resolved" under the Settlement Agreement. Possible fact patterns include actions preparatory to the "work" required under the settlement, work undertaken voluntarily at the site, or work completed under a unilateral administrative order issued by EPA. Where such work or costs have not been expressly recognized as "resolved" in a prior EPA settlement, and EPA and DOJ agree that such recognition is appropriate in this agreement, the prior work/costs should be described with specificity in one or more paragraphs, and the end of Paragraph 67(b) should include the additional clause, "and for those response actions taken or costs paid prior to the Effective Date and described in [insert relevant paragraph numbers describing the additional work] of this Settlement Agreement."

#### XXIV. INDEMNIFICATION

79. Respondent shall indemnify, save and hold harmless the United States, its officials, agents, contractors, subcontractors, employees and representatives from any and all claims or causes of action arising from, or on account of, negligent or other wrongful acts or omissions of Respondent, its officers, directors, employees, agents, contractors, or subcontractors, in carrying out actions pursuant to this Settlement Agreement. In addition, Respondent agrees to pay the United States all costs incurred by the United States, including but not limited to attorneys fees and other expenses of litigation and settlement, arising from or on account of claims made against the United States based on negligent or other wrongful acts or omissions of Respondent, its officers, directors, employees, agents, contractors, subcontractors and any persons acting on its behalf or under its control, in carrying out activities pursuant to this Settlement Agreement. The United States shall not be held out as a party to any contract entered into by or on behalf of Respondent in carrying out activities pursuant to this Settlement Agreement. Neither Respondent nor any such contractor shall be considered an agent of the United States.

80. The United States shall give Respondent notice of any claim for which the United States plans to seek indemnification pursuant to this Section and shall consult with Respondent prior to settling such claim.

81. Respondent waives all claims against the United States for damages or reimbursement or for set-off of any payments made or to be made to the United States, arising from or on account of any contract, agreement, or arrangement between the Respondent and any person for performance of Work on or relating to the Site, including, but not limited to, claims on account of construction delays. In addition, Respondent shall indemnify and hold harmless the United States with respect to any and all claims for damages or reimbursement arising from or on account of any contract, agreement, or arrangement between ~~any one or more of~~ Respondents and any person for performance of Work on or relating to the Site, including, but not limited to, claims on account of construction delays.

#### XXV. INSURANCE

82. At least X<sub>2</sub> days prior to commencing any on-Site work under this Settlement Agreement, Respondent shall secure, and shall maintain for the duration of this Settlement Agreement, comprehensive general liability insurance and automobile insurance with limits of \$1 ~~???~~ million dollars, combined single limit, naming EPA as an additional insured. Within the same time period, Respondent shall provide EPA with certificates of such insurance and a copy of each insurance policy. Respondent shall submit such certificates and copies of policies each year on the anniversary of the Effective Date. In addition, for the duration of the Settlement Agreement, Respondent shall satisfy, or shall ensure that ~~their~~ contractors or subcontractors satisfy, all applicable laws and regulations regarding the provision of worker's compensation insurance for all persons performing the Work on behalf of Respondent in furtherance of this Settlement Agreement. If Respondent demonstrates by evidence satisfactory to EPA that any contractor or subcontractor maintains insurance equivalent to that described above, or insurance covering some or all of the



same risks but in an equal or lesser amount, then Respondent need provide only that portion of the insurance described above which is not maintained by such contractor or subcontractor.

## **XXVI. FINANCIAL ASSURANCE**

83. Within 30 days of the Effective Date, Respondent shall establish and maintain financial security for the benefit of EPA in the amount of \$ insert estimated cost of Work in one or more of the following forms, in order to secure the full and final completion of Work by Respondents:

- a. a surety bond unconditionally guaranteeing payment and/or performance of the Work;
- b. one or more irrevocable letters of credit, payable to or at the direction of EPA, issued by financial institution(s) acceptable in all respects to EPA;
- c. a trust fund administered by a trustee acceptable in all respects to EPA;
- d. a policy of insurance issued by an insurance carrier acceptable in all respects to EPA, which ensures the payment and/or performance of the Work;
- e. a written guarantee to pay for or perform the Work provided by one (1) or more parent companies of Respondent, or by one or more unrelated companies that have a substantial business relationship with the Respondent; including a demonstration that any such guarantor company satisfies the financial test requirements of 40 C.F.R. Part 264.143(f); and/or
- f. a demonstration of sufficient financial resources to pay for the Work made by the Respondent, which shall consist of a demonstration that the Respondent satisfies the requirements of 40 C.F.R. Part 264.143(f).

84. Any and all financial assurance instruments provided pursuant to this Section shall be in form and substance satisfactory to EPA, determined in EPA's sole discretion. In the event that EPA determines at any time that the financial assurances provided pursuant to this Section (including, without limitation, the instrument(s) evidencing such assurances) are inadequate, Respondent shall, within 30 days of receipt of notice of EPA's determination, obtain and present to EPA for approval one of the other forms of financial assurance listed in Paragraph 72, above. In addition, if at any time EPA notifies Respondent that the anticipated cost of completing the Work has increased, then, within 30 days of such notification, Respondent shall obtain and present to EPA for approval a revised form of financial assurance (otherwise acceptable under this Section) that reflects such cost increase. Respondent's inability to demonstrate financial ability to complete the Work shall in no way excuse performance of any activities required under this Settlement Agreement.

85. If Respondent seeks to ensure completion of the Work through a guarantee pursuant to Subparagraph 72(e) or 72(f) of this Settlement Agreement, Respondent shall (i) demonstrate to

EPA's satisfaction that the guarantor satisfies the requirements of 40 C.F.R. Part 264.143(f); and (ii) resubmit sworn statements conveying the information required by 40 C.F.R. Part 264.143(f) annually, on the anniversary of the Effective Date or such other date as agreed by EPA, to EPA. For the purposes of this Settlement Agreement, wherever 40 C.F.R. Part 264.143(f) references "sum of current closure and post-closure costs estimates and the current plugging and abandonment costs estimates," the dollar amount to be used in the relevant financial test calculations shall be the current cost estimate of \$?? for the Work at the Site plus any other RCRA, CERCLA, TSCA, or other federal environmental obligations financially assured by the relevant Respondent or guarantor to EPA by means of passing a financial test.

86. If, after the Effective Date, Respondent can show that the estimated cost to complete the remaining Work has diminished below the amount set forth in Paragraph 72 of this Section, Respondent may, on any anniversary date of the Effective Date, or at any other time agreed to by the Parties, reduce the amount of the financial security provided under this Section to the estimated cost of the remaining Work to be performed. Respondent shall submit a proposal for such reduction to EPA, in accordance with the requirements of this Section, and may reduce the amount of the security after receiving written approval from EPA. In the event of a dispute, Respondent may seek dispute resolution pursuant to Section XV (Dispute Resolution). Respondent may reduce the amount of security in accordance with EPA's written decision resolving the dispute.

87. Respondent may change the form of financial assurance provided under this Section at any time, upon notice to and prior written approval by EPA, provided that EPA determines that the new form of assurance meets the requirements of this Section. In the event of a dispute, Respondent may change the form of the financial assurance only in accordance with the written decision resolving the dispute.

## **XXVII. MODIFICATIONS**

88. The OSC may make modifications to any plan or schedule or Statement of Work in writing or by oral direction. Any oral modification will be memorialized in writing by EPA promptly, but shall have as its effective date the date of the OSC's oral direction. Any other requirements of this Settlement Agreement may be modified in writing by mutual agreement of the parties.

89. If Respondent seeks permission to deviate from any approved work plan or schedule or Statement of Work, Respondent's Project Coordinator shall submit a written request to EPA for approval outlining the proposed modification and its basis. Respondent may not proceed with the requested deviation until receiving oral or written approval from the OSC pursuant to Paragraph 77.

90. No informal advice, guidance, suggestion, or comment by the OSC or other EPA representatives regarding reports, plans, specifications, schedules, or any other writing submitted by Respondent shall relieve Respondent of its obligation to obtain any formal approval required by this

Settlement Agreement, or to comply with all requirements of this Settlement Agreement, unless it is formally modified.

### **XXVIII. ADDITIONAL REMOVAL ACTION**

91. If EPA determines that additional removal actions not included in an approved plan are necessary to protect public health, welfare, or the environment, EPA will notify Respondent of that determination. Unless otherwise stated by EPA, within 30 days of receipt of notice from EPA that additional removal actions are necessary to protect public health, welfare, or the environment, Respondent shall submit for approval by EPA a Work Plan for the additional removal actions. The plan shall conform to the applicable requirements of Section VIII (Work to Be Performed) of this Settlement Agreement. Upon EPA's approval of the plan pursuant to Section VIII, Respondent shall implement the plan for additional removal actions in accordance with the provisions and schedule contained therein. This Section does not alter or diminish the OSC's authority to make oral modifications to any plan or schedule pursuant to Section XXVII (Modifications).]

### **XXIX. NOTICE OF COMPLETION OF WORK**

92. When EPA determines, after EPA's review of the Final Report, that all Work has been fully performed in accordance with this Settlement Agreement, with the exception of any continuing obligations required by this Settlement Agreement, including post-removal site controls, payment of Future Response Costs, or record retention, EPA will provide written notice to Respondent. If EPA determines that any such Work has not been completed in accordance with this Settlement Agreement, EPA will notify Respondent, provide a list of the deficiencies, and require that Respondent modify the Work Plan if appropriate in order to correct such deficiencies. Respondent shall implement the modified and approved Work Plan and shall submit a modified Final Report in accordance with the EPA notice. Failure by Respondent to implement the approved modified Work Plan shall be a violation of this Settlement Agreement.

### **XXXI. INTEGRATION/APPENDICES**

93. This Settlement Agreement and its appendices constitute the final, complete and exclusive agreement and understanding among the Parties with respect to the settlement embodied in this Settlement Agreement. The parties acknowledge that there are no representations, agreements or understandings relating to the settlement other than those expressly contained in this Settlement Agreement. The following appendices are attached to and incorporated into this Settlement Agreement: \_\_\_\_\_.

( Map, Action/Memo? What else?)

with the plan?

### **XXXII. EFFECTIVE DATE**

94. [NOTE: Regions may insert specific practice and language.] This Settlement Agreement shall be effective one (1) day after the Settlement Agreement is signed by the Regional Administrator or his/her delegatee.

The undersigned representative of the Respondent certifies that <sup>with</sup> it is fully authorized to enter into the terms and conditions of this Settlement Agreement and to bind the party(ies) <sup>h/ve</sup> it represents to this document.

Agreed this \_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_.

For Respondent \_\_\_\_\_

By \_\_\_\_\_

Title \_\_\_\_\_

[NOTE: Use separate page for the following signature.]

It is so ORDERED and Agreed this \_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_.

BY: \_\_\_\_\_

DATE: \_\_\_\_\_

Shane Hitchcock, Chief  
Emergency Response and Removal Chief  
Region 4  
U.S. Environmental Protection Agency

*Shane Hitchcock*

EFFECTIVE DATE: \_\_\_\_\_



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4

61 Forsyth Street  
Atlanta, Georgia 30303-3104

MEMORANDUM

Date: July 20, 2007

Subject: Superfund Division Weekly Report

From: Franklin E. Hill, Director  
Superfund Division

To: Jimmy Palmer  
Regional Administrator

Following is the weekly accomplishments report for the Superfund Division programs.

I. Weekly Activity Report

BRANCH	SITE OR PROJECT	DESCRIPTION	MILESTONE
Emergency Response and Removal	Fieldcrest Cannon Plant 7 Oil Spill, Salisbury, NC, Ken Rhame 919/475-7397	The Salisbury Waste Water Treatment Plant noticed fuel entering their system, and upon investigation, the Salisbury Fire Department traced the spill to a closed textile mill. The facility has a fuel tank that leaked fuel oil into an oil/water separator. The system was overwhelmed and fuel entered Town Creek and a storm water drain that led to the POTW. NCDENR hired an environmental contractor to deploy booms and construct overflow dams. Raleigh Outpost OSC Rhame was sent to oversee the response and coordinate actions with the Salisbury FD and NCDENR. The facility's property manager is on site and is cooperating with the cleanup. OSC Rhame will continue to assess the facility for any abandoned drums and material on the site and most likely an order will need to be issued to	Response Ongoing



10780549



BRANCH	SITE OR PROJECT	DESCRIPTION	MILESTONE
		the property owner in order to finish the clean up.	
<b>Emergency Response and Removal</b>	Kentucky Wood Preserving Site, Winchester, KY, Art Smith 502/905-7559	EPA's removal site inspection in April 2007 concluded that Chromated Copper Arsenate (CCA) product solutions and wastewaters are stored in an abandoned condition. In the interim, KDEP expressed their concern regarding a potential release to the environment, citing the fact vandals had broken into the treatment building. KDEP formally referred this former wood treating site to EPA Region 4 on June 15, 2007. After a follow up site visit, and due to the seriousness of the situation, EPA will initiate a time-critical removal action at the Site during the week of July 16, 2007. An ERRS contractor will be given a verbal task order under the OSC's emergency authority to secure the site, clear debris, and collect samples for purposes of arranging for the offsite disposal/treatment of wood treating solutions.	Response Ongoing
<b>Superfund Remedial</b>	Escambia Wood Treating Company, FL David Keefer 2-8932	Progress continues on the permanent relocation activities for the Clarinda Triangle neighborhood through the National Relocation Evaluation Pilot project. A community leader, Ms. Katherine Wade, reached an amicable settlement with EPA following an appeal of the government's final offer for her property of \$289,000. Ms. Wade submitted a third-party appraisal of the property to the government which was independently reviewed by a Senior Appraiser at the Jacksonville District of the U.S. Army Corps of Engineers. The sales information on the comparable properties was more up-to-date than the government's appraisal, due in large part to the duration of the appeals process, and this provided a substantive basis for revision of the government's offer. A	

BRANCH	SITE OR PROJECT	DESCRIPTION	MILESTONE
		negotiated settlement was reached at an agreed valuation of \$315,000. A meeting was held in Tallahassee with Florida Department of Environmental Protection (FDEP) to discuss completion/comments to the 90% remedial design package for the Operable Unit 1 action. FDEP anticipates providing comments, if any, by the end of July, 2007, to support remedial action start in 4th Quarter FY07.	
<b>Superfund Remedial</b>	Coleman-Evans Wood Preserving, FL David Keefer 2-8932	Remedial construction activities for Operable Unit 2 are in progress. EPA and Florida Department of Environmental Protection (FDEP) met on-site to discuss additional State concerns about the extent of excavation and previous sampling locations. These concerns were resolved, and construction is continuing as designed. Initial FDEP review of the amended Superfund State Contract to revise the cost-basis to the remedial action contract rather than the design estimate has been completed. The amended contract is in routing for approval and should not impact construction progress. Work is on schedule for construction completion in mid-September 2007.	Construction Completion 4 <sup>th</sup> Qtr/FY07
<b>Superfund Support Branch/SFCG Section</b>	Closeout of FEMA-funded Prior-year Hurricanes Carol Jackson 2-8856	Submitted documentation to GMO for close-out of FEMA-funded IAG's with USCG for prior-year Hurricanes as follows: Tropical Storm Frances, NC, \$39,700; Hurricane Wilma, FL (3 IAGs), \$156,000. Total funds deobligated are \$195,700.	7/16/07
<b>Superfund Support Branch/SFCG Section</b>	Deobligation of FEMA funds from Hurricane Katrina IAG's Carol Jackson 2-8856	Deobligation of \$13,200,000 in FEMA funds from Hurricane Katrina IAG's with USCG were submitted to GMO as follows: IAG #DW70945995, MS, \$800K, IAG #DW70945996, MS, \$5.4M, and IAG #DW70945999, AL, \$7M. Deobligations resulted from ceiling reductions to IAG Mission Assignments.	7/18/07

BRANCH	SITE OR PROJECT	DESCRIPTION	MILESTONE
		Discussions are being held with USCG and FEMA to expedite final close-outs which are anticipated within 60-90 days.	
<b>Federal Facilities Branch</b>	Savannah River Site, SC, Rob Pope 2-8506	EPA, SCDHEC, and DOE have come to an agreement regarding the E Area Slit Trenches. DOE has agreed to add E Area to the FFA as an operable unit to be investigated and have ROD in the future. Once E Area in an enforceable agreement (the FFA), CERCLA Offsite Acceptability will be restored. E Area will operate under the DOE Atomic Energy Act Authority. An Interim ROD will be issued to place caps on the first 2 slit trenches. Subsequent slit trenches will be capped using Technical Evaluation Reports. DOE will prepare and submit a Remedial Action Implementation Plan for EPA and SCDHEC approval. The DOE Closure Plan will be used as a supporting document for the final ROD at E Area once operations cease. DOE will also be allowed to dispose of CERCLA low level waste only at E Area in future CERCLA actions.	Interim ROD in 2008/2009. Final ROD for E Area in 2032.  Removal Action Reports for 2 Removals in 2008.
<b>Federal Facilities Branch</b>	Savannah River Site, SC, Rob Pope 2-8506	DOE has verbally notified EPA that TRU waste was inadvertently placed in the E Area Slit Trenches. EPA is awaiting official written notification of the issue. Depending on the actions proposed, DOE may loose Off Site Acceptability again, due to a "relevant violation".	
<b>Superfund Remedial &amp; Site Evaluation Branch</b>	IMC, Spartanburg, SC, Giezelle Bennett 2-8824 Rich Campbell 2-8825	Two conference calls were held within the last week to discuss draft comments provided by DHEC on the Feasibility Study. DHEC also informed us that a position memo on appropriate application of Water Quality Criteria would be forwarded to EPA from their Bureau of Water. That memo has not yet been received, but DHEC has gone ahead and finalized their FS comments. These final comments continue to insist that surface water criteria be applied to ground water	FY 07 ROD



BRANCH	SITE OR PROJECT	DESCRIPTION	MILESTONE
		in a way we believe to be inappropriate, and several other small concessions made in the conference calls are not reflected in the comments. DHEC also raised some new issues in these comments that we have not heard previously. As a result of our difficulty in resolving DHEC comments on the RI and FS, achieving the SCAP ROD target (this site was a 4 <sup>th</sup> quarter target, so was an alternate target for FY07) for this site is unlikely.	
<b>Superfund Remedial &amp; Site Evaluation Branch</b>	Kerr McGee Chemical (Tronox), Hattiesburg, MS, Donna Webster 2-8870	Staff prepared a profile of the Kerr-McGee facility in Hattiesburg, MS. The profile was one of several being done for a hearing with Administrator Johnson regarding Environmental Justice issues. The responsible party is conducting a cleanup under a voluntary agreement with MDEQ. EPA's only involvement was a review of the risk assessment in 2000.	NA
<b>Superfund Remedial &amp; Site Evaluation Branch</b>	Rochester Property, Travelers Rest, SC, Donna Webster 2-8870	Staff prepared a Notice of Intent to Delete and Notice of Deletion for the Rochester Property site, to be printed in the Federal Register. The documents are currently routing for the RA's signature. They are being published concurrently because the site is non-controversial, no additional O&M or 5 year reviews are required, and no adverse comments are expected. Deletion will be final 60 days from publication if no adverse comments are received.	Deletion Final, September 2007
<b>Superfund Remedial &amp; Site Evaluation Branch</b>	ABC Cleaners/Tarawa Terrace School Sampling Investigation, USMC base Camp Lejeune, NC, John Nolen 2-8750	In 2007 ATSDR conducted a groundwater modeling project which attempted to reconstruct historical and present-day conditions of groundwater flow, contaminant fate and transport, and distribution of drinking water for Tarawa Terrace and Vicinity. Despite evidence (ground water sampling data from several years of monitoring) to the contrary, ATSDR has made public their concerns	

BRANCH	SITE OR PROJECT	DESCRIPTION	MILESTONE
		<p>that exposure to volatile organic compounds associated with the ABC Cleaners Site may still be occurring at the Tarawa Terrace housing area at Camp Lejeune. ATSDR is specifically concerned about the vapour intrusion pathway and resultant potential for exposure of residents in homes and children/staff at a school. As a result of the study, the USMC and EPA have partnered together to conduct a sampling investigation to collect additional data to confirm or deny the presence of volatile subsurface contaminants around the school and the Tarawa Terrace housing community. On Monday, July 16, 2007 the USMC and EPA SEDS mobilized to the site to collect groundwater, soil vapor, and subsurface soil samples.</p>	

### **OEA Assists OSC in Getting PRP to Agree to Conduct all Work at an Emergency Response**


On Monday July 16th, US EPA was notified by North Carolina Department of Environment and Natural Resources (DENR) that oil was observed leaching from impacted soils along the bank of Tar Branch Creek in Salisbury, Rowan County, NC. The source of the discharge was determined to be an oil-water separator, at the Fieldcrest Cannon Plant facility, an abandoned cotton textile plant. US EPA Region 4 OSC Rhame responded and conducted a walk-thru of the facility with the Salisbury Fire Department and DENR. At that time the OSC observed several conditions at the facility that needed to be addressed as a emergency response: the on going discharge to the Tar Branch Creek; the numerous abandoned drums of unknown material scattered through out the facility; and a stockpile of PCB contaminated soil. OEA assisted the OSC in locating the responsible party. OEA coordinated and participated in a conference call with the OSC, the PRP, the PRP and the Salisbury Fire Department. All EPA's concerns were discussed with the PRP. The PRP agreed to conduct all activities immediately. The PRR signed an access agreement and was provided with a copy of EPA's Notice of Federal Interest.

CONTACT: Karen Singer, Senior Attorney, x 29540, [singer.karen@epa.gov](mailto:singer.karen@epa.gov) or Wilda Cobb, Associate Regional Counsel, x 9530, [cobb.wilda@epa.gov](mailto:cobb.wilda@epa.gov)



10780550

Kenneth  
Rhame/R4/USEPA/US  
07/19/2007 03:28 PM

To Karen Singer/R4/USEPA/US@EPA  
cc  
bcc  
Subject Re: Notices of Federal Interest 

Thanks for all your help.

Karen Singer

----- Original Message -----

**From:** Karen Singer  
**Sent:** 07/19/2007 03:21 PM  
**To:** Kenneth Rhame  
**Cc:** Wilda Cobb  
**Subject:** Notices of Federal Interest

Ken,

Here are the letters going via certified mail, return receipt requested, for your information. Since I signed on your behalf, I had to change the wording a little.

Karen

[attachment "Remnotinterestfieldcrest71907b.doc" deleted by Kenneth Rhame/R4/USEPA/US]

[attachment "Remnotinterestfieldcrest71907fcsurban.doc" deleted by Kenneth Rhame/R4/USEPA/US]

CONFIDENTIALITY NOTICE: This message is being sent by or on behalf of an attorney. It is intended exclusively for the individual(s) or entity(ies) to whom or to which it is addressed. This communication may contain information that is proprietary, privileged, or confidential or otherwise legally exempt from disclosure. If you are not the named addressee, you are not authorized to read, print, retain, copy, or disseminate this message or any part of it. If you have received this message in error, please notify the sender immediately by email and delete all copies of the message.



10780551



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

**REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960**

Date 7/17/2007

Mr. Bob Lupton  
FCS Urban Ministries  
750 Glenwood Ave  
Atlanta, GA 30316

SUBJ: Notice of Federal Interest in a Pollution  
Incident

Dear Mr. Lupton

This is to inform you that a pollution incident that has occurred or threatens to occur at Fieldcrest Cannon Plant #7 located at 400 North Boundary Street, Salisbury, NC, for which you may be financially responsible. Under federal statutes, the United States Government has an interest in this incident and may take appropriate action to minimize damages which are threatened or which may be caused by this incident.

The discharge of a harmful quantity of oil or a hazardous substance is a violation of the Clean Water Act, As amended. Under this act, the owner or operator of the source may undertake removal action. If he refuses to take adequate removal action, he may be held financially responsible for action taken by the Federal Government to remove the pollutant and adequately mitigate its effects. Removal is being done properly if it is performed in a manner consistent with the National Contingency Plan. If you undertake removal action, the adequacy of such action shall be determined by the federal On-Scene Coordinator (OSC). The OSC for this incident is Kenneth Rhame.

So long as you are taking adequate actions in this matter, federal activity will be limited to monitoring the progress of your actions and providing guidance as necessary.

If it is determined that you are not taking prompt and appropriate action to clean up, contain and remove the pollutant(s), federal response may be initiated. You may then be held responsible for costs incurred by the Federal Government as set forth in Section 311(f) of the Clean Water Act, as amended.

Should you require further information concerning this matter, please contact the OSC by telephone at (919)-475-7397 or in writing at:

Kenneth B. Rhame  
U.S. Environmental Protection Agency  
Sam Nunn Federal Center  
61 Forsyth St., SW  
Atlanta, Georgia 30303

Sincerely,  
Kenneth B. Rhame  
On-Scene  
Coordinator

Received and Acknowledged By:

Signature: \_\_\_\_\_

Date Received: \_\_\_\_\_

Time Received: \_\_\_\_\_

Printed Name and Address:

Name: \_\_\_\_\_

Address:

\_\_\_\_\_

City: \_\_\_\_\_ State \_\_\_\_\_



Kenneth  
Rhame/R4/USEPA/US  
07/19/2007 12:31 PM

To Karen Singer/R4/USEPA/US@EPA  
cc Wilda Cobb/R4/USEPA/US@EPA  
bcc  
Subject Re: Notice of Fed. Interest Drafts

It looks good to me, there is a = sign in the line EPA=s

You can put my cell number (919) 475-7397.

Also I agree that you should probably give them a heads up, are you going to send it out or am I.  
Also will they return it to you or me via mail or fax?

Sincerely,  
Kenneth B. Rhame  
Federal On-Scene Coordinator  
U.S. Environmental Protection Agency, Region 4  
Raleigh NC  
Cell: 919-475-7397

E-mail: rhame.kenneth@epa.gov

Karen Singer/R4/USEPA/US



Karen Singer/R4/USEPA/US  
07/19/2007 12:22 PM

To Kenneth Rhame/R4/USEPA/US@EPA  
cc Wilda Cobb/R4/USEPA/US@EPA  
Subject Notice of Fed. Interest Drafts

**ATTORNEY-CLIENT PRIVILEGE/DO NOT RELEASE**

Ken (and Wilda too),

I checked on JFS Properties, Inc. through the GA secretary of state's website. As we discussed, Joel's brother John is the registered agent and holds the officer positions, which is why I included him, instead of Joel, in the notice letter. If you don't object, I can call Joel and give him a heads up about the letter in order to avoid making this an adversarial relationship.

Is there any other reason we need to send a notice letter to Southfund Partners? I haven't seen anything connecting it to the site yet but maybe I've just missed it.

I've deviated from the model a little in the drafts below because the removal has obviously already started. Do you want to add a different phone number for yourself on the last page?

The summary of the call looked good.

Karen



Remnotinterestfieldcrest71907b.doc



10780553



Remnotinterestfieldcrest71907fcsurban.doc

**CONFIDENTIALITY NOTICE:** This message is being sent by or on behalf of an attorney. It is intended exclusively for the individual(s) or entity(ies) to whom or to which it is addressed. This communication may contain information that is proprietary, privileged, or confidential or otherwise legally exempt from disclosure. If you are not the named addressee, you are not authorized to read, print, retain, copy, or disseminate this message or any part of it. If you have received this message in error, please notify the sender immediately by email and delete all copies of the message.

4WD-ERRB

Mr. Bob Lupton  
FCS Urban Ministries, Inc.  
750 Glenwood Ave.  
Atlanta, Georgia 30316

SUBJ: Notice of Federal Interest

Dear Mr. Lupton:

The purpose of this letter is to inform you that a release or threatened release of hazardous substances, pollutants or contaminants, for which FCS Urban Ministries, Inc. may be responsible, has occurred and threatens to continue occurring at the following location: 400 North Boundary Street, Salisbury, North Carolina. The United States Environmental Protection Agency (EPA) has an interest in this incident and has concluded that a removal action is necessary to clean up or contain the release. A removal action is an action that may be necessary to monitor, assess and evaluate the release or threat of release of hazardous substances, pollutants or contaminants and includes physical removal and disposal of hazardous substances, pollutants or contaminants. Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), EPA is authorized to address this release or threatened release.

EPA has requested that the owners of the Site conduct a removal action promptly and properly. Liable parties under Section 107 of CERCLA generally include the current owner or operator of the property, anyone who owned or operated at the property when hazardous substances were disposed, generators of hazardous substances disposed of at the Site, and transporters of hazardous substances.

EPA's On-Scene Coordinator shall determine the adequacy of the removal action performed by liable parties and shall provide guidance and oversight of such action. The On-Scene Coordinator for this incident is Kenneth Rhame.

If the liable parties decline the opportunity to take appropriate action or if EPA determines that liable parties cannot perform the removal action promptly and properly, EPA may conduct the removal action itself. If EPA conducts the removal action, liable parties will be held financially responsible for costs incurred by the EPA as set forth in Section 107 of CERCLA.

You are strongly encouraged to contact an attorney who can advise you of your rights and responsibilities under CERCLA. Should you require further information concerning this matter, please contact the On-Scene Coordinator by telephone at ~~(404) 562-8700~~ or you may write to the address below.

919/475-7397

\_\_\_\_\_  
On-Scene Coordinator  
U.S. Environmental Protection Agency  
Region 4  
ERRB, Waste Division  
61 Forsyth Street S.W.  
Atlanta, Georgia 30303

Receipt and Acknowledgment:

Received by: \_\_\_\_\_ Date: \_\_\_\_\_

\_\_\_\_\_ Date: \_\_\_\_\_

Printed name: \_\_\_\_\_

\_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_



4WD-ERRB

Mr. John Smithgall  
JFS Properties, Inc.  
4470 Chamblee Dunwoody Road  
Atlanta, Georgia 30338

SUBJ: Notice of Federal Interest

Dear Mr. Smithgall:

The purpose of this letter is to inform you that a release or threatened release of hazardous substances, pollutants or contaminants, for which JFS Properties, Inc. may be responsible, has occurred and threatens to continue occurring at the following location: 400 North Boundary Street, Salisbury, North Carolina. The United States Environmental Protection Agency (EPA) has an interest in this incident and has concluded that a removal action is necessary to clean up or contain the release. A removal action is an action that may be necessary to monitor, assess and evaluate the release or threat of release of hazardous substances, pollutants or contaminants and includes physical removal and disposal of hazardous substances, pollutants or contaminants. Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), EPA is authorized to address this release or threatened release.

EPA has requested that the owners of the Site conduct a removal action promptly and properly. Liable parties under Section 107 of CERCLA generally include the current owner or operator of the property, anyone who owned or operated at the property when hazardous substances were disposed, generators of hazardous substances disposed of at the Site, and transporters of hazardous substances.

EPA's On-Scene Coordinator shall determine the adequacy of the removal action performed by liable parties and shall provide guidance and oversight of such action. The On-Scene Coordinator for this incident is Kenneth Rhame.

If the liable parties decline the opportunity to take appropriate action or if EPA determines that liable parties cannot perform the removal action promptly and properly, EPA may conduct the removal action itself. If EPA conducts the removal action, liable parties will be held financially responsible for costs incurred by the EPA as set forth in Section 107 of CERCLA.

You are strongly encouraged to contact an attorney who can advise you of your rights and responsibilities under CERCLA. Should you require further information concerning this matter, please contact the On-Scene Coordinator by telephone at (404) 562-8700 or you may write to the address below.

\_\_\_\_\_  
On-Scene Coordinator  
U.S. Environmental Protection Agency  
Region 4  
ERRB, Waste Division  
61 Forsyth Street S.W.  
Atlanta, Georgia 30303

919/425-7397

*When return this document, if you do not to OIC then it  
will address to the OIC*

Receipt and Acknowledgment:

Received by: \_\_\_\_\_ Date: \_\_\_\_\_

\_\_\_\_\_  
Date: \_\_\_\_\_

Printed name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_



Karen Singer/R4/USEPA/US  
05/12/2008 09:37 AM

To Rhelyn Finch/R4/USEPA/US@EPA  
cc  
bcc

Subject Fw: Fieldcrest Cannon Plant #7, Salisbury, NC

fyi

CONFIDENTIALITY NOTICE: This message is being sent by or on behalf of an attorney. It is intended exclusively for the individual(s) or entity(ies) to whom or to which it is addressed. This communication may contain information that is proprietary, privileged, or confidential or otherwise legally exempt from disclosure. If you are not the named addressee, you are not authorized to read, print, retain, copy, or disseminate this message or any part of it. If you have received this message in error, please notify the sender immediately by email and delete all copies of the message.

----- Forwarded by Karen Singer/R4/USEPA/US on 05/12/2008 09:37 AM -----



Karen Singer/R4/USEPA/US  
05/12/2008 09:34 AM

To Tony Moore/R4/USEPA/US, Greg Armstrong/R4/USEPA/US  
cc

Subject Fw: Fieldcrest Cannon Plant #7, Salisbury, NC

ATTORNEY-CLIENT PRIVILEGE/DO NOT RELEASE

Tony and Greg:

This was a removal case from last year that I did a little work on . It was just transferred to one of our new attorneys. I don't know if it is on your radar screen yet and whether any one has been assigned to it. If someone has, I would like to bring the new attorney, Rhelyn Finch, down to meet that EPM. If not, Rhelyn will then know to wait to hear from someone in your office.

Thanks.

Karen

CONFIDENTIALITY NOTICE: This message is being sent by or on behalf of an attorney. It is intended exclusively for the individual(s) or entity(ies) to whom or to which it is addressed. This communication may contain information that is proprietary, privileged, or confidential or otherwise legally exempt from disclosure. If you are not the named addressee, you are not authorized to read, print, retain, copy, or disseminate this message or any part of it. If you have received this message in error, please notify the sender immediately by email and delete all copies of the message.

----- Forwarded by Karen Singer/R4/USEPA/US on 05/12/2008 09:30 AM -----



Rhelyn Finch/R4/USEPA/US  
05/12/2008 09:18 AM

To Karen Singer/R4/USEPA/US@EPA  
cc

Subject Fieldcrest Cannon Plant #7, Salisbury, NC

Here you are, Karen.



10780555

Fieldcrest Cannon Plant 7 Site, 400 North Boundary St., Salisbury, Rowan County, North Carolina  
PRP/Owner: FCS Urban Ministries, Inc., Atlanta, GA  
OSC: Kenneth Rhame

Rhelyn Finch  
Office of Environmental Accountability  
U.S. Environmental Protection Agency, Region 4  
61 Forsyth St., S.W.  
Atlanta, GA 30303  
(404) 562-9807  
(404) 562-9486 (fax)





Karen Singer/R4/USEPA/US

07/17/2007 06:05 PM

To Patricia Strougal/R4/USEPA/US@EPA

cc

bcc Karen Singer/R4/USEPA/US

Subject Information on property ownership

DELIBERATIVE PROCESS/DO NOT RELEASE

Pat,

When you have a chance, I'd like to talk to you about using your sources to check on the ownership of a site where we are currently doing an emergency removal. It is called the Fieldcrest Cannon Plant 7, located at 400 North Boundary Street, in Salisbury, North Carolina. The owner may be JFS Properties, Inc. and/or Joel Smithgall. He says he gifted the property to a charity. He may be associated with South Fund Peachtree of Atlanta or something similar, as well as Peachtree South Fund. Wilda did some preliminary investigations and it looks like he or affiliated companies own up to 17 former cotton mills, like this one, and many other properties. Someone from the fire department told our OSC that the charity is listed on the deed for the property but we don't have copies of deeds or anything official or written. Also, could you check on Mr. Smithgall to confirm he owns other properties?

Thanks.

Karen

CONFIDENTIALITY NOTICE: This message is being sent by or on behalf of an attorney. It is intended exclusively for the individual(s) or entity(ies) to whom or to which it is addressed. This communication may contain information that is proprietary, privileged, or confidential or otherwise legally exempt from disclosure. If you are not the named addressee, you are not authorized to read, print, retain, copy, or disseminate this message or any part of it. If you have received this message in error, please notify the sender immediately by email and delete all copies of the message.



10780559



Karen Singer /R4/USEPA/US

07/18/2007 05:57 PM

To Dawn Taylor/R4/USEPA/US@EPA

cc

bcc Karen Singer/R4/USEPA/US

Subject Question about North Carolina site where emergency removal occurring

ATTORNEY-CLIENT PRIVILEGE/DELIBERATIVE PROCESS/DO NOT RELEASE

Hi Dawn.

I'm working with Ken Rhame to prepare an order for conducting an emergency removal at the Fieldcrest Cannon Plant 7 property located in Salisbury, North Carolina. The Site shows up on EPA's FRS website. Ken noticed that there are wells on the site and wondered if someone else at EPA (including your office) or North Carolina DENR might be looking at the Site already. Maybe because of a state water permit. Do you or one of your staff assigned to North Carolina know if this site is already a radar screen or in CERCLIS?

Thanks.

karen

CONFIDENTIALITY NOTICE: This message is being sent by or on behalf of an attorney. It is intended exclusively for the individual(s) or entity(ies) to whom or to which it is addressed. This communication may contain information that is proprietary, privileged, or confidential or otherwise legally exempt from disclosure. If you are not the named addressee, you are not authorized to read, print, retain, copy, or disseminate this message or any part of it. If you have received this message in error, please notify the sender immediately by email and delete all copies of the message.



10780561

Kenneth  
Rhame/R4/USEPA/US  
07/19/2007 11:58 AM

To joel.smithgall@southfundcompanies.com  
cc dmorr@salisburync.gov, james.bateson@ncmail.net,  
steve.lewis@ncmail.net, Wilda Cobb/R4/USEPA/US@EPA,  
Karen Singer/R4/USEPA/US@EPA, Shane  
bcc  
Subject Fieldcrest Cannon Plant 7 Conf. Call Summary

Fieldcrest Cannon Plant 7 Site  
7/19/2007 Conf. Call Summary:

All activities will be conducted as a Emergency Response...

1. 7/19/2007 Security of facility will be addressed by a legitimate commercial security company.
2. A Health and Safety Plan will be written and provided to US EPA and to the Salisbury Fire Dept.  
A sign in Board will be placed at the entrance gate with names of contractors entering and exiting the site for accountability.  
Holes in the floors will be properly flagged with caution tape by a properly licensed/certified/qualified contractor.
2. 7/19/2007 and 7/20/2007 Certified/Qualified Env. Contractor will screen soil to determine pcb presence.
3. 7/19/2007 and 7/20/2007 Doug Thomas will excavate/contain contaminated petroleum oil only from entering Tar Branch Creek.  
By Monday 7/23/2007 and every Monday there after until project completion, a Work Schedule will be provided to US EPA and The Salisbury Fire Dept. which will include completed tasks, remaining tasks and the weekly schedule.
4. PCB Oils, drums, asbestos and any other identified hazardous substances/waste will be addressed with properly licensed/certified/qualified contractors.
5. Any demolition work will be done only after notifying the Salisbury Fire Dept and receiving appropriate permits.
6. Mr. Smithgall wanted to express his concern that the Salisbury Police Dept is taking the trespassing that is occurring at the site more seriously.

Sincerely,  
Kenneth B. Rhame  
Federal On-Scene Coordinator  
U.S. Environmental Protection Agency, Region 4  
Raleigh NC  
Cell: 919-475-7397

E-mail: rhame.kenneth@epa.gov



10780563



7/15/02

Wade Cobb, Ken Rhame, K. Singer, David Mark (Lensing & C  
Fire Dept), Joel Smitzall, Doug Thomas (consult)

~~Fire Dept~~

Ken discussed condition of site, concerns about capability to address  
problem. At ~~the~~ site yesterday to look under and look  
under pipe discharging into the creek - not sure if had  
regular heating oil from tank at facility or was waste oil  
with PCBs. His first priority is certainly stop on site,  
preventing migration, excavating PCB contaminated soil, establish  
on floor, when pp walking, vapors sleeping. Not convinced  
site can be secured by replacing ~~the~~ locks. The locks were  
replaced Tuesday, broken off last. - 14 cases. So many possible  
points - fire dept concerned too.

Doug just got 8 in Atlanta had to do what is missing. Dev. plan  
of action for diesel fuel, the well address. Looking at Sp. Chem,  
trained, to take care of PCBs. - want to NEHAH report for  
assessment. -

Ken thought oil exchanger starting yesterday. Doug's style  
is still yesterday in car crash. Can do it until summer.

Will get 24hr grant, do report plan. EPA - fire dept will  
review, provide comments, not approve.

Doug Plan - do probe known, start at caverns, PCB survey on  
site. Log in hole - avoid holes, - not hard, not easy if  
dangerous. I'm sure Joel, Ken is comfortable with that - if Doug  
dies that -



In response to J's of the fine dist, police adding more photos

Ken would make a schedule weekly to get watched  
not doing, better 10/15/16 - fine dist not to know,  
but to sign in for accountability.

In P<sub>1</sub> + control dist + moving system, reports, had 24 hrs. -  
from, weekend, non control - and had from in -  
if get hurt - defense has only

Copy of PCB saying - good only to fine dist + Ken

fine dist - fax - 704/634-4475

cell - 704/202-1161

plum-fax - 704/634-5310

will have with 1st in entry = up to =

29 hrs. and



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

JUL 19 2007

**VIA CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Mr. John Smithgall  
JFS Properties, Inc.  
4470 Chamblee Dunwoody Road  
Atlanta, Georgia 30338

SUBJ: Notice of Federal Interest

Dear Mr. Smithgall:

The purpose of this letter is to inform you that a release or threatened release of hazardous substances, pollutants or contaminants, for which JFS Properties, Inc. may be responsible, has occurred and threatens to continue occurring at the following location: 400 North Boundary Street, Salisbury, North Carolina. The United States Environmental Protection Agency (EPA) has an interest in this incident and has concluded that a removal action is necessary to clean up or contain the release. A removal action is an action that may be necessary to monitor, assess and evaluate the release or threat of release of hazardous substances, pollutants or contaminants and includes physical removal and disposal of hazardous substances, pollutants or contaminants. Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), EPA is authorized to address this release or threatened release.

EPA has requested that the owners of the Site conduct a removal action promptly and properly. Liable parties under Section 107 of CERCLA generally include the current owner or operator of the property, anyone who owned or operated at the property when hazardous substances were disposed, generators of hazardous substances disposed of at the Site, and transporters of hazardous substances.

EPA's On-Scene Coordinator shall determine the adequacy of the removal action performed by liable parties and shall provide guidance and oversight of such action. I have been designated as the On-Scene Coordinator for this incident.

If the liable parties decline the opportunity to take appropriate action or if EPA determines that liable parties cannot perform the removal action promptly and properly, EPA may conduct the removal action itself. If EPA conducts the removal action, liable parties will be held financially responsible for costs incurred by the EPA as set forth in Section 107 of CERCLA.



You are strongly encouraged to contact an attorney who can advise you of your rights and responsibilities under CERCLA. Should you require further information concerning this matter, you can contact me by telephone, at (919) 475-7397, or write to me at the address listed above. Please acknowledge receipt of this letter by signing and dating it and faxing a copy to Karen Singer, the EPA attorney assigned to this matter, at (404) 562-9486.

Sincerely,

*Kenneth B. Rhame for Kenneth Rhame*

Kenneth B. Rhame  
On-Scene Coordinator  
Waste Division

Receipt and Acknowledgment:

Received by: \_\_\_\_\_ Date: \_\_\_\_\_

Printed name: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

JUL 1 9 2007

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Mr. Bob Lupton  
FCS Urban Ministries, Inc.  
750 Glenwood Ave.  
Atlanta, Georgia 30316

SUBJ: Notice of Federal Interest

Dear Mr. Lupton:

The purpose of this letter is to inform you that a release or threatened release of hazardous substances, pollutants or contaminants, for which FCS Urban Ministries, Inc. may be responsible, has occurred and threatens to continue occurring at the following location: 400 North Boundary Street, Salisbury, North Carolina. The United States Environmental Protection Agency (EPA) has an interest in this incident and has concluded that a removal action is necessary to clean up or contain the release. A removal action is an action that may be necessary to monitor, assess and evaluate the release or threat of release of hazardous substances, pollutants or contaminants and includes physical removal and disposal of hazardous substances, pollutants or contaminants. Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), EPA is authorized to address this release or threatened release.

EPA has requested that the owners of the Site conduct a removal action promptly and properly. Liable parties under Section 107 of CERCLA generally include the current owner or operator of the property, anyone who owned or operated at the property when hazardous substances were disposed, generators of hazardous substances disposed of at the Site, and transporters of hazardous substances.

EPA's On-Scene Coordinator shall determine the adequacy of the removal action performed by liable parties and shall provide guidance and oversight of such action. I have been designated as the On-Scene Coordinator for this incident.

If the liable parties decline the opportunity to take appropriate action or if EPA determines that liable parties cannot perform the removal action promptly and properly, EPA may conduct the removal action itself. If EPA conducts the removal action, liable parties will be held financially responsible for costs incurred by the EPA as set forth in Section 107 of CERCLA.





You are strongly encouraged to contact an attorney who can advise you of your rights and responsibilities under CERCLA. Should you require further information concerning this matter, you can contact me by telephone at (919) 475-7397 or write to me at the address listed above. Please acknowledge receipt of this letter by signing and dating it and faxing a copy to Karen Singer, the EPA attorney assigned to this matter, at (404) 562-9486.

Sincerely,

*Karen Singer to Kenneth Rhame*

Kenneth B. Rhame  
On-Scene Coordinator  
Waste Division

Receipt and Acknowledgment:

Received by: \_\_\_\_\_ Date: \_\_\_\_\_

Printed name: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

ONLINE TOOLS | [Donate Online](#) | [FDCG](#) | [AdvisorXpress](#) | [Merrill Fund](#) | [Approved Organizations](#)



AFFILI

Potential Donors	Existing Donors	Professional Advisors	Grants	Scholarships	SE
------------------	-----------------	-----------------------	--------	--------------	----

[HOME](#)

[Affiliates](#)

[Community Foundations](#)

[North Carolina](#)

[Salisbury Community Foundation](#)

[Grant Summary](#)

[Printer-Friendly Format](#)

You are here: [HOME](#) -> [Affiliates](#) -> [Community Foundations](#) -> [North Carolina](#) -> [Salisbury Foundation](#)

FOUNDATION FOR THE CAROLINAS

## Salisbury Community Foundation

Information on this North Carolina regional affiliate is featured below.

The Salisbury Community Foundation has benefited the community since its inception in 1944. The Foundation was established by a group of concerned citizens with the common interest of making Salisbury and Rowan County a better place to live.

The Salisbury Community Foundation joined forces with Foundation For The Carolinas as a supporting organization in 1995 and became a regional affiliate in 2006. Foundation For The Carolinas serves as administrator, while the Salisbury Community Foundation Board of Trustees governs the organization and oversees the grant distribution and investment process.

**Donor Advised, Endowment & Deferred Funds:** \$8,578,065 (as of 12/31/2006)

### Salisbury Community Foundation Board of Trustees

Patricia P. Rendleman, President

Christine P. Whitton, Vice Chair

Sara D. Cook, Secretary

Paul E. Fisher, Treasurer

Judy Grissom

R. Darrell Hancock

Susan W. Kluttz

Dwight Messinger

Tom Smith

Alice Stanback

William Stanback

### Grant Guidelines

Program Focus

THE G

[A](#)

[A](#)

[N](#)

[R](#)

[C](#)

profes

PLAI  
DES

Register  
free, co  
resour  
your c  
cha

Click



10780586

Preference will be given to non-recurring capital needs and one-time projects. Generally, items considered to be part of ongoing operating budgets are not funded. Grants to individuals will not be considered.

**Geographic Focus**

Grants from the unrestricted fund are limited to projects that will benefit the town of Salisbury and the Rowan County area of North Carolina. First priority will be given to Salisbury.

**Deadline**

At this time a grant cycle has not been established for 2007. Applications will not be available until a grant cycle has been determined. Please continue to visit this page periodically for updates

**Tax Exempt Status**

Grants will be made to organizations recognized as tax exempt through the IRS that are in or serving the citizens of our county.

The Foundation strives to give equitable consideration to all grant applicants. The Foundation has adopted a Philosophy of Grantmaking, which includes fair and objective procedures, and a Conflict of Interest Policy. Accordingly, members of the Board of Directors and various grant committees are conscientious in removing themselves from the *discussion and voting* regarding any organizations with which they are affiliated.

Applicants are requested to help maintain this standard of objectivity for all applicants. Lobbying and written/verbal endorsements of applications addressed directly to a Foundation Board or committee member are considered inappropriate. If a member is contacted on behalf of a grantee, the following will take place:

- Board/committee members will disclose the contact during discussion of the application
- Board/committee members will remove themselves from the deliberation process if they feel their objectivity has been compromised by the contact

In reality, the Foundation recognizes that various parties may wish to express support for an application. While such expressions are not encouraged, the appropriate procedure is to write the Foundation staff member in charge of the grant program involved. The cooperation of grantees and their supporters is greatly appreciated.

Grant applicants are notified after receipt of their grant application.

**To obtain an application, contact:**

Karen Coppadge  
Grants Specialist  
Salisbury Community Foundation  
217 South Tryon Street  
Charlotte, NC 28202

Phone: (704) 973-4559

Fax: (704) 973-4959

**For more information about Salisbury Community Foundation,  
contact:**

Holly Welch Stubbing

Assistant Secretary

Salisbury Community Foundation

217 S. Tryon Street

Charlotte, NC 28202

(704) 973-4557

© 2007 Foundation For The Carolinas | Disclaimer

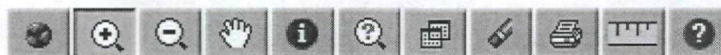
Potential Donors | Existing Donors | Professional Advisors  
Grants | Scholarships

TOOLS: Donate Online | Advisor Xpress | PGDC | Forms | Approved Orgs

INFO: Regional | About | News | Resources | Contact



## Rowan Co, NC



Layers

Apply Changes

Layers

Legend

## Layers

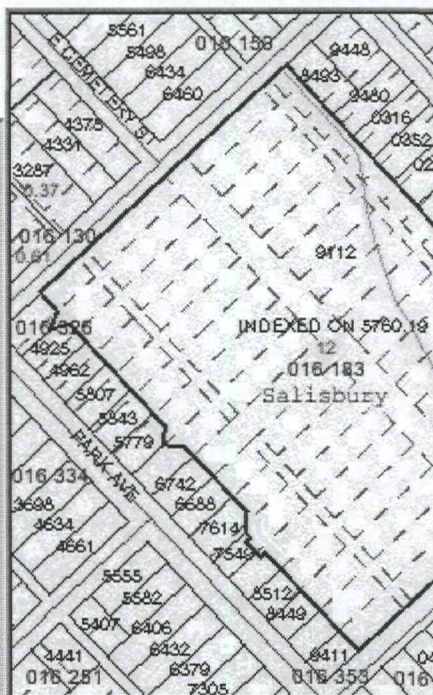
On Label Name

- ☐ ☐ Contours
- ☒ ☐ County Boundary
- ☒ ☒ Jurisdiction
- ☒ ☒ Major Roads
- ☒ ☐ Old Lines and Easements
- ☒ ☐ Parcel Annotation
- ☒ ☐ Parcel Deed Acres
- ☒ ☒ Parcels
- ☐ ☐ Railroad
- ☒ ☒ Roads
- ☒ ☒ Streams
- ☐ ☐ Structures
- ☐ ☐ Zoning (County)

## Overlays

On Label Name

- ☐ ☐ Aerial Imagery
- ☐ ☐ Soils
- ☐ ☐ Townships



## Identify Adjoining Parcels

 Buffer: 0  
ft 

## Parcels

Parcel ID: 016 183

Owner:

 JFS PROPERTIES INC *by Corridor*  
 4470 CHAMBL DUNWDY RD STE 290  
 ATLANTA GA 30338-6229

Property Address:

0 N BOUNDARY ST

Legal Description:

L1-16

Acreage: 12 acres

Deed Book: 957 Pg: 449

Deed Year: 2002

Date Sold: 01/31/2007

Sale Inst.: QCD

Sale Amt.: \$0

Land FMV: \$312,000

Assessed Land Value: \$312,000

Building Value: \$148,674

Total Assessed Value: \$460,674

View Property Card 016 183

Mailable link

## Other Attributes

at point 1566902, 699945

Jurisdiction:

Name: Salisbury

Soils:

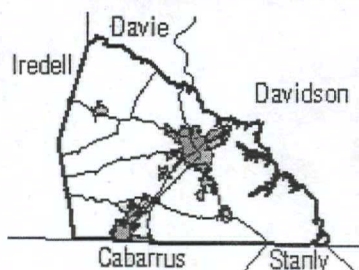
Soil ID: Uf

Townships:

Name: Salisbury

Zoning (County):

District: Salisbury



Rowan Co, NC Web Site

WebGIS Home

Anderson &amp; Associates







## U.S. Environmental Protection Agency Facility Registry System (FRS)

[Recent Additions](#) | [Contact Us](#) | [Print Version](#) EF Search: **GO**[EPA Home](#) > [Envirofacts](#) > [FRS](#) > [Report](#)

FRS

### Facility Detail Report

**Report  
an  
Error**

Facility Name:	FIELDCREST CANNON INCORPORATED PLANT 7
Location Address:	423 NORTH BOUNDARY STREET
Supplemental Address:	
City Name:	SALISBURY
State	NC
County Name:	ROWAN
ZIP/Postal Code:	28144
EPA Region:	04
Congressional District Number:	12
Legislative District Number:	
HUC Code:	03040103
Federal Facility:	NO
US Mexico Border Indicator:	NO
Tribal Land :	NO
Latitude:	35.664769
Longitude:	-80.459971
Method:	ADDRESS MATCHING-HOUSE NUMBER
Reference Point Description:	
Duns Number:	
Registry ID:	110000348865

[Map this facility](#)

### Environmental Interests

Information System	Information System ID	Environmental Interest Type	Data Source	Last Updated Date	Supplemental Environmental Interests:
<a href="#">NC-FITS</a>	2906	STATE MASTER	NC-FITS		115DA4YG00UT2W84DX0G809T9D WASTEWATER FACILITY -1665 AIR PROGRAM
		CRITERIA			



10780590



<a href="#">NEI</a>	NEI46170	AND HAZARDOUS AIR POLLUTANT INVENTORY	NEI		
<a href="#">RCRAINFO</a>	<a href="#">NCD981863236</a>	NOT IN A UNIVERSE	RCRAINFO	11/13/2002	
<a href="#">TRIS</a>	<a href="#">28144 PLNT423NB</a>	TRI REPORTER	TRI REPORTING FORM	06/28/1999	

### Facility Mailing Addresses

<a href="#">Affiliation Type</a>	<a href="#">Delivery Point</a>	<a href="#">City Name</a>	<a href="#">State</a>	<a href="#">Postal Code</a>	<a href="#">Information System</a>
AUTHORIZED CONTACT	ONE LAKE CIRCLE DRIVE	KANNAPOLIS	NC	28082	NC-FITS
FACILITY CONTACT	P O BOX 107	KANNAPOLIS	NC	28082	NC-FITS
FACILITY MAILING ADDRESS	423 N. BOUNDARY ST.	SALISBURY	NC	28144	TRIS
FACILITY MAILING ADDRESS	4470 CHAMBLEE DUNWOODY RD #290	ATLANTA	GA	30338	RCRAINFO
OWNER	411 MINT WAY	DALLAS	TX	75237	RCRAINFO
OWNER	4470 CHAMBLEE DUNWOODY RD #290	ATLANTA	GA	30338	RCRAINFO
PERMIT CONTACT	P O BOX 107	KANNAPOLIS	NC	28082	NC-FITS
REGULATORY CONTACT	CHAMBLEE DUNWOODY RD #290	ATLANTA	GA	30338	RCRAINFO

### NAICS Codes

<a href="#">Data Source</a>	<a href="#">NAICS Code</a>	<a href="#">Description</a>	<a href="#">Primary</a>
NC-FITS	031321		
NEI	31321		

### SIC Codes

<a href="#">Data Source</a>	<a href="#">SIC Code</a>	<a href="#">Description</a>	<a href="#">Primary</a>
NC-FITS	2211	BROADWOVEN FABRIC MILLS, COTTON	
NEI	2211	BROADWOVEN FABRIC MILLS, COTTON	
TRIS	2211	BROADWOVEN FABRIC MILLS, COTTON	

### Contacts

--	--	--	--	--

Affiliation Type	Full Name	Office Phone	Information System	Mailing Address
AUTHORIZED CONTACT	ABBA MICHAEL	(704) 939-2740	NC-FITS	<a href="#">View</a>
FACILITY CONTACT	ABBA W MICHAEL	(704) 939-2654	NC-FITS	<a href="#">View</a>
PERMIT CONTACT	ABBA W MICHAEL	(704) 939-2654	NC-FITS	<a href="#">View</a>
PUBLIC CONTACT	JANET EARNHARDT	7049392673	TRIS	
REGULATORY CONTACT	JOHN SMITHGALL	7704571611	RCRAINFO	<a href="#">View</a>

## Organizations

Affiliation Type	Name	DUNS Number	Information System	Mailing Address
OPERATOR	JFS PROPERTIES		RCRAINFO	
OWNER	PILLOWTEX CORPORATION		RCRAINFO	<a href="#">View</a>
OWNER	JFS PROPERTIES		RCRAINFO	<a href="#">View</a>

## Alternative Names

Alternative Name	Source of Data
FIELDCREST CANNON, INCORPORATED	NC-FITS
FIELDCREST CANNON PLANT 7	RCRAINFO

Query executed on: JUL-17-2007

### Additional information for CERCLIS or TRI sites:

*This information resource is not maintained, managed, or owned by the Environmental Protection Agency (EPA) or the Envirofacts Support Team. Neither the EPA nor the Envirofacts Support Team is responsible for their content or site operation. The Envirofacts Warehouse provides this reference only as a convenience to our Internet users.*

- National Library of Medicine (NLM)  [TOXMAP](#)

---

[EPA Home](#) | [Privacy and Security Notice](#) | [Contact Us](#)

Last updated on Tuesday, July 17th, 2007  
[http://oaspub.epa.gov/enviro/fii\\_query\\_dtl.disp\\_program\\_facility](http://oaspub.epa.gov/enviro/fii_query_dtl.disp_program_facility)



SEE ADDENDUM

FILED in ROWAN County, NC  
on Jan 31 2007 at 02:22:21 PM  
by: Bobbie M. Earnhardt  
Register of Deeds  
BOOK 1085 PAGE 945

D-7532.00  
JME

After Recording, Return To:

JFS Properties, Inc. ✓  
4470 Chamblee Dunwoody Road, Suite 290  
Atlanta, GA 30338  
Attn: John F. Smithgall

Grantee's Address:

FCS Urban Ministries  
P.O. Box 17628  
Atlanta, GA 30316

MAP 16 PAR 383  
MAP 16 PAR 384  
MAP 16 PAR 385  
MAP 16 PAR 386  
MAP 16 PAR 183  
MAP 16 PAR 387

STATE OF NORTH CAROLINA  
COUNTY OF ROWAN

WARRANTY DEED OF GIFT

THIS WARRANTY DEED OF GIFT (this "Deed") is made as of the 28th day of December, 2006, between JFS PROPERTIES, INC., a Georgia corporation ("Donor") and FCS URBAN MINISTRIES, INC., ("Donee"), a Georgia non-profit corporation and tax exempt organization classified as a public charity pursuant to Sections 501(c)(3) and/or 509(a) of the Internal Revenue Code, whose address is P.O. Box 17628, Atlanta, Georgia, 30316 ("Donor" and "Donee" to include their respective successors, legal representatives, and assigns where the context requires or permits).

WITNESSETH:

For and in consideration of ONE DOLLAR (\$1.00) and charitable intent, Donor, has and by these presents does, give and convey unto the Donee, in fee simple:

All that tract or parcel of land containing 13.536 acres, more or less, lying and being in the Salisbury Township, City of Salisbury, Rowan County, North Carolina, and being more particularly described in Exhibit "A" attached and made a part hereof.

THIS PROPERTY IS GIVEN AND CONVEYED SUBJECT TO THOSE TITLE EXCEPTIONS SET FORTH IN EXHIBIT "B" ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE.

TO HAVE AND TO HOLD the Property forever, with all and singular the rights to the same being, belonging, or in any wise appertaining to only proper use, benefit, and behoof of said Donee forever in FEE SIMPLE; subject only to those matters set forth in Exhibit "B" attached hereto.

2181



10780591



DONORS COVENANT AND WARRANT unto Donee that: (i) Donors are lawfully seized and possessed of the Property in fee simple, subject only to those matters as set forth herein; (ii) Donors have good right to convey the Property to Donee, and (iii) that the title to the Property is marketable, and free and clear of all encumbrances except as provided in Exhibit "B" attached hereto.

AND DONORS WILL WARRANT and forever defend the right and title to the Property unto Donee against the claims of all persons owning, holding or claiming by through or under Donors.

IN WITNESS WHEREOF, the Donors have executed this Warranty Deed of Gift as of the date above written.

[ SIGNATURES CONTINUED ON NEXT PAGE ]

2

Executed this 28<sup>th</sup> day of December, 2006, by  
John F. Smithgall in  
Dekalb County, Georgia, in the presence of:

DONOR:

JFS Properties, Inc.

By: John F. Smithgall, President

Lara H. Spears  
Unofficial Witness

Lara H. Spears  
Notary Public-

My Commission Expires: 2/24/09

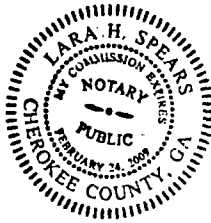
NOTARY'S FORM OF IDENTIFICATION:

As To John F. Smithgall:

Personally Known: ✓

Photo Identification: \_\_\_\_\_

Other: \_\_\_\_\_



Receipt Acknowledged by Donee:

Robert Lupton  
FCS Urban Ministries

By: Robert Lupton

3

BOOK 802 PAGE 542

## PARCEL 1

Plant 7 Site:

Beginning at a new iron pin along the northeasterly right of way of Boundary Street, said iron pin being S 47° 16' 04" W, 141.90 feet from the monument at the intersection of the northeasterly right of way of Boundary Street and the southwesterly right of way of Franklin Street; thence from said beginning point along the northeasterly right of way of Boundary Street S 47° 16' 04" W, 593.96 feet to a new iron pin; thence leaving said northeasterly right of way of Boundary Street and heading S 43° 00' 10" E, 47.56 feet to a new iron pin; thence S 18° 48' 58" W, 36.63 feet to a new iron pin; thence N 77° 28' 50" E, 36.55 feet to a new iron pin; thence S 43° 15' 30" E, 241.15 feet to a new iron pin; thence S 02° 17' 22" W, 37.30 feet to a new iron pin; thence S 89° 07' 18" E, 37.30 feet to a new iron pin; thence S 43° 15' 29" E, 155.99 feet to a new iron pin; thence S 02° 41' 39" W, 36.98 feet to a new iron pin; thence S 43° 11' 26" E, 18.46 feet to a new iron pin; thence S 46° 46' 34" W, 10.00 feet to a new iron pin; thence S 43° 13' 26" E, 33.54 feet to a new iron pin; thence N 46° 46' 34" E, 10.00 feet to a new iron pin; thence S 43° 13' 26" E, 91.81 feet to a new iron pin; thence S 44° 09' 32" E, 161.38 feet to a new iron pin lying on the northwesterly right of way of Arlington Street; thence heading along the northwesterly boundary line, N 47° 11' 51" E, 230.09 feet to a new iron pin; thence N 64° 28' 47" W, 14.72 feet to a new iron pin; thence N 47° 20' 14" E, 390.50 feet to a new iron pin; thence leaving said northwesterly boundary of Arlington Street, N 42° 59' 55" W, 272.64 feet to a new iron pin; thence N 46° 57' 44" E, 141.97 feet to a new iron pin; thence along said southwesterly right of way of Franklin Street N 43° 00' 20" W, 40.00 feet to a new iron pin; thence leaving said southwesterly right of way, S 46° 57' 40" W, 141.96 feet to a new iron pin; thence N 42° 59' 55" W, 537.64 feet to the new iron pin at the point of beginning and containing 11.992 acres.

Lots 27, 28, 29 and 30:

Beginning at a new iron pin at the intersection of the southwesterly right of way of Franklin Street and the northwesterly right of way of Arlington Street; thence along said northwesterly right of way of Arlington Street S 47° 20' 14" W, 142.00 feet to a new iron pin; thence leaving said northwesterly right of way of Arlington Street and heading N 42° 59' 55" W, 272.64 feet to a new iron pin; thence N 46° 57' 44" E, 141.97 feet to a new iron pin; thence heading along the southwesterly right of way of Franklin Street S 43° 00' 20" E, 273.55 feet to the point of beginning and containing 0.890 acres.

4

EXHIBIT "A"

(Page 1 of 2)

PARCEL V

All that certain tract or parcel of land lying and being in the Salisbury Township, City of Salisbury, Rowan County, North Carolina, and being further described as follows:

Lots 10, 11 and 12:

Beginning at a point on the northeasterly right of way of Park Avenue said point being N 42° 59' 48" W, 213.45 feet from the intersection of the northwesterly right of way of Arlington Street and the northeasterly right of way of Park Avenue; thence from said beginning point along the northeasterly right of way of Park Avenue, N 42° 59' 48" W, 150.97 feet to an iron pin located at the northwesternmost point of Lot No. 10; thence along the common boundary line of said Lot No. 10 and Lot No. 9, N 47° 44' 32" E, 105.77 feet to an iron pin at the northernmost point of said Lot No. 10; thence along the northeasterly boundary line of said Lot No. 10, S 43° 13' 29" E, 37.16 feet to an iron pin; thence along the easterly boundary line of said Lot No. 10 S 02° 41' 39" W, 28.11 feet to an iron pin; thence along the northeasterly boundary line of said Lot No. 11 for the following courses and distances: (1) S 02° 41' 39" W, 8.47 feet to an iron pin; (2) S 43° 13' 29" E, 18.46 feet to an iron pin; (3) S 46° 46' 34" W, 10 feet to an iron pin; (4) S 43° 13' 26" E, 21.81 feet to an iron pin; thence along the northeasterly boundary line of said Lot No. 12 for the following courses and distances: (1) S 43° 13' 26" E, 11.73 feet to an iron pin; (2) N 46° 46' 34" E, 10.00 feet to an iron pin; (3) S 43° 13' 26" E, 18.07 feet to an iron pin; thence along the common boundary line of Lot No. 12 and Lot No. 13, S 46° 03' 19" W, 79.62 feet to an iron pin being the point of beginning and containing .291 acres.

5



BOOK 602 PAGE 543

Lot 32:

Beginning at a new iron pin at the intersection of the southeasterly right of way of Arlington Street and the northeasterly right of way of Kesler Street; thence along said southeasterly right of way of Arlington Street N 47° 20' 14" E, 108.10 feet to a new iron pin; thence leaving said southeasterly right of way and heading S 42° 40' 00" E, 230.25 feet to a new iron pin; thence S 46° 37' 04" W, 48.93 feet to a new iron pin; thence along the northeasterly right of way of Kesler Street N 43° 38' 17" W, 86.70 feet to a new iron pin; thence N 64° 28' 47" W, 155.29 feet to the new iron pin at the point of beginning and containing 0.361 acres.

The above described parcels are shown on map entitled Map 2 of 5, Property of Cannon Holding Corporation, Job No. L-7111-2 by James T. Hill, Registered Land Surveyor, dated October, 1982.

6

110

EXHIBIT "B" TO

WARRANTY DEED OF GIFT  
MADE BY  
JFS PROPERTIES, INC.  
TO  
FCS URBAN MINISTRIES, INC.

PERMITTED TITLE EXCEPTIONS

1. Defects, liens, encumbrances, adverse claims or matters, if any, created, first appearing in the public records or attaching subsequent to the effective date hereof.
2. Rights or claims of parties in possession not shown by the public records.
3. Easements, or claims of easements, not shown by the public records.
4. Encroachments, overlaps, boundary line disputes, or other matters which would be disclosed by an accurate survey or inspection of the premises.
5. Any lien, or right to a lien, for services, labor or material heretofore or hereafter furnished, imposed by law and not shown by the public records.
6. Any adverse claim to any portion of said land which has been created by artificial means or has accredit to any such portion so created and riparian rights, if any.
7. Taxes or special assessments which are not shown as existing liens by public records.
8. General and special taxes or assessments for 2007 and subsequent years not yet due and payable. All 2006 and prior years have been paid for both Rowan County and City of Salisbury.
9. Any potential prior reservation or conveyance, together with release of damages, of minerals of every kind and character, including, but not limited to oil, gas, sand, and gravel in, on and under subject property.
10. Building set back lines, easements and matters which would be disclosed by a current and accurate survey of the premises.
11. All matters of record.
12. All matters revealed by a future survey of the Property being conveyed hereby.
13. Acts done or suffered by Grantee or anyone claiming by, through or under Grantee.
14. Matters revealed in a Phase I Environmental Site assessment done for Pillowtex Corporation's Plant 7 dated May 7, 2002, of which Donee has copy.
15. Donor shall have the right prior to July 1, 2007 to remove two (2) metal storage tanks and any of its personal property from the premises.

7

**Rowan County Assessor's Office**  
Multiple Parcel Identification

Tract/Lot 32 Parcel ID

MAP	S/M	PAR	S/P	U/IN	L/IN	C/C	PART	INT
016		383						8

Tract/Lot 10 Parcel ID

MAP	S/M	PAR	S/P	U/IN	L/IN	C/C	PART	INT
016		384						8

Tract/Lot 11 Parcel ID

MAP	S/M	PAR	S/P	U/IN	L/IN	C/C	PART	INT
016		385						8

Tract/Lot 12 Parcel ID

MAP	S/M	PAR	S/P	U/IN	L/IN	C/C	PART	INT
016		386						8

Tract/Lot \_\_\_\_\_ Parcel ID

MAP	S/M	PAR	S/P	U/IN	L/IN	C/C	PART	INT
016		183						8

Tract/Lot --- Parcel ID

MAP	S/M	PAR	S/P	U/IN	L/IN	C/C	PART	INT
016		387						8

Tract/Lot \_\_\_\_\_ Parcel ID

MAP	S/M	PAR	S/P	U/IN	L/IN	C/C	PART	INT

Tract/Lot \_\_\_\_\_ Parcel ID

MAP	S/M	PAR	S/P	U/IN	L/IN	C/C	PART	INT

Tract/Lot \_\_\_\_\_ Parcel ID

MAP	S/M	PAR	S/P	U/IN	L/IN	C/C	PART	INT

Tract/Lot \_\_\_\_\_ Parcel ID

MAP	S/M	PAR	S/P	U/IN	L/IN	C/C	PART	INT

Tract/Lot \_\_\_\_\_ Parcel ID

MAP	S/M	PAR	S/P	U/IN	L/IN	C/C	PART	INT

Tract/Lot \_\_\_\_\_ Parcel ID

MAP	S/M	PAR	S/P	U/IN	L/IN	C/C	PART	INT

Tract/Lot \_\_\_\_\_ Parcel ID

MAP	S/M	PAR	S/P	U/IN	L/IN	C/C	PART	INT

Tract/Lot \_\_\_\_\_ Parcel ID

MAP	S/M	PAR	S/P	U/IN	L/IN	C/C	PART	INT

Tract/Lot \_\_\_\_\_ Parcel ID

MAP	S/M	PAR	S/P	U/IN	L/IN	C/C	PART	INT

*8*

SEE ADDENDUM

3:54

Book

Page

0957

0449

FILED

ROWAN COUNTY NC

11/25/2002 3:54 PM

BOBBIE M EARNHARDT  
Register Of Deeds

ROWAN COUNTY NC  
13

11/25/2002

\$500.00



Real Estate  
Excise Tax

500.00

Tax Lot No. \_\_\_\_\_ Parcel Identifier No. \_\_\_\_\_  
Verified by \_\_\_\_\_ County on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
by \_\_\_\_\_

Mail after recording to: Nexsen Pruet Jacobs & Pollard, PLLC, 201 S. Tryon Street, St. 1200, Charlotte, NC 28202 (JDMc) 18934.136  
This instrument was prepared by \_\_\_\_\_  
Brief Description for the index \_\_\_\_\_

## NORTH CAROLINA SPECIAL WARRANTY DEED

THIS DEED made this 13<sup>th</sup> day of November, 2002, by and between

GRANTOR	GRANTEE
FIELDCREST CANNON, INC., a Delaware corporation	JFS PROPERTIES, INC. <u>4470 Chamblee Dunwoody Road, Suite 290</u> <u>Atlanta, GA 30338</u>

Enter in appropriate block for each party: name, address, and, if appropriate, character of entity, e.g., corporation or partnership.

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot or parcel of land situated in Rowan County, North Carolina and more particularly described as follows:

See Exhibit A attached hereto and incorporated herein by reference.



10780592



The property hereinabove described was acquired by Grantor by instrument recorded in Book \_\_\_\_\_, Page \_\_\_\_\_.

A map showing the above described property is recorded in Plat Book \_\_\_\_\_, Page \_\_\_\_\_.

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

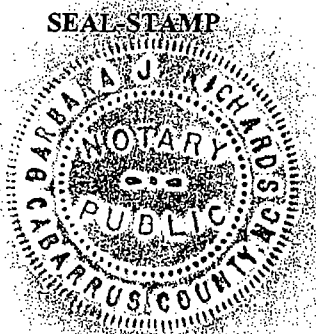
And the Grantor covenants with the Grantee, that Grantor has done nothing to impair such title as Grantor received, and Grantor will warrant and defend the title against the lawful claims of all persons claiming by, under or through Grantor, except for the exceptions hereinafter stated.

Title to the property hereinabove described is subject to the following exceptions:

IN WITNESS WHEREOF, the Grantor has hereunto set his hand and seal, or if corporate, has caused this instrument to be signed in its corporate name by its duly authorized officers and its seal to be hereunto affixed by authority of its Board of Directors, the day and year first above written.

**FIELDCREST CANNON, INC., a Delaware corporation**

By: [Signature]  
Vice President



NORTH CAROLINA, COUNTY OF Cabarrus

I, Barbara J. Richards, a Notary Public of the County and State aforesaid, certify that Henry T. Pollock, personally came before me this day and acknowledged that he/she is Vice President of FIELDCREST CANNON, INC., a Delaware corporation, and that he/she as Vice President, being authorized to do so, executed the foregoing on behalf of the corporation.

Witness my hand and official stamp or seal, this 12th day of November, 2002.

My commission expires: February 4, 2005

Barbara J. Richards  
Notary Public

NORTH CAROLINA: ROWAN COUNTY

The foregoing certificate of Barbara J. Richards N.P. of Cabarrus Co NC is certified to be correct.

Filed for registration this 25 day of Nov, 2002

By [Signature]  
Bobbie M. Earnhardt, Register of Deeds

EXHIBIT "A"

(Page 1 of 2)

PARCEL V

All that certain tract or parcel of land lying and being in the Salisbury Township, City of Salisbury, Rowan County, North Carolina, and being further described as follows:

Lots 10, 11 and 12:

Beginning at a point on the northeasterly right of way of Park Avenue said point being N 42° 59' 48" W, 213.45 feet from the intersection of the northwesterly right of way of Arlington Street and the northeasterly right of way of Park Avenue; thence from said beginning point along the northeasterly right of way of Park Avenue, N 42° 59' 48" W, 150.97 feet to an iron pin located at the northwesternmost point of Lot No. 10; thence along the common boundary line of said Lot No. 10 and Lot No. 9, N 47° 44' 32" E, 105.77 feet to an iron pin at the northwesternmost point of said Lot No. 10; thence along the northeasterly boundary line of said Lot No. 10, S 43° 15' 29" E, 32.36 feet to an iron pin; thence along the westerly boundary line of said Lot No. 10 S 02° 41' 39" W, 28.51 feet to an iron pin; thence along the northeasterly boundary line of said Lot No. 11 for the following courses and distances: (1) S 02° 41' 39" W, 8.47 feet to an iron pin; (2) S 43° 13' 25" E, 18.46 feet to an iron pin; (3) S 46° 46' 34" W, 10 feet to an iron pin; (4) S 43° 13' 25" E, 21.81 feet to an iron pin; thence along the northeasterly boundary line of said Lot No. 12 for the following courses and distances: (1) S 43° 13' 25" E, 11.73 feet to an iron pin; (2) N 46° 46' 34" E, 10.00 feet to an iron pin; (3) S 43° 13' 25" E, 38.07 feet to an iron pin; thence along the common boundary line of Lot No. 12 and Lot No. 13, S 46° 02' 10" W, 79.82 feet to an iron pin being the point of beginning and containing .293 acres.



# EXHIBIT "A" CONTINUED

(Page 2 of 2)

## Plant 7 Site:

Beginning at a new iron pin along the northeasterly right of way of Boundary Street, said iron pin being South 47° 16' 04" West 141.90 feet from the monument at the intersection of the northeasterly right of way of Boundary Street and the southwesterly right of way of Franklin Street; thence from said beginning point along the northeasterly right of way of Boundary Street South 47° 16' 04" West 593.96 feet to a new iron pin; thence leaving said northeasterly right of way of Boundary Street and heading South 43° 00' 10" East 47.56 feet to a new iron pin; thence South 18° 48' 58" West 36.63 feet to a new iron pin; thence North 77° 28' 50" East 36.55 feet to a new iron pin; thence South 43° 15' 30" East 241.15 feet to a new iron pin; thence South 02° 17' 22" West 37.30 feet to a new iron pin; thence South 43° 15' 29" East 155.99 feet to a new iron pin; thence South 02° 41' 39" West 36.98 feet to a new iron pin; thence South 43° 13' 26" East 18.46 feet to a new iron pin; thence South 46° 46' 34" West 10.00 feet to a new iron pin; thence South 43° 13' 26" East 33.54 feet to a new iron pin; thence North 46° 46' 34" East 10.00 feet to a new iron pin; thence South 43° 13' 26" East 91.81 feet to a new iron pin; thence South 44° 09' 32" East 161.38 feet to a new iron pin lying on the northwesterly right of way of Arlington Street; thence heading along the northwesterly boundary line North 47° 11' 53" East 230.09 feet to a new iron pin; thence North 64° 28' 47" West 14.72 feet to a new iron pin; thence North 47° 20' 14" East 390.50 feet to a new iron pin; thence leaving said northwesterly boundary of Arlington Street North 42° 59' 55" West 272.64 feet to a new iron pin; thence North 46° 57' 44" East 141.97 feet to a new iron pin; thence along said southwesterly right of way of Franklin Street North 43° 00' 20" West 40.00 feet to a new iron pin; thence leaving said southwesterly right of way South 46° 57' 40" West 141.96 feet to a new iron pin; thence North 42° 59' 55" West 537.64 feet to the new iron pin at the point of beginning and containing 11.992 acres.

## Lots 27, 28, 29 and 30:

Beginning at a new iron pin at the intersection of the southwesterly right of way of Franklin Street and the northwesterly right of way of Arlington Street; thence along said northwesterly right of way of Arlington Street South 47° 20' 14" West 142.00 feet to a new iron pin; thence leaving said northwesterly right of way of Arlington Street and heading North 42° 59' 55" West 272.64 feet to a new iron pin; thence North 46° 57' 44" East 141.97 feet to a new iron pin; thence heading along the southwesterly right of way of Franklin Street South 43° 00' 20" East 273.55 feet to the point of beginning and containing 0.890 acres.

## Lot 32:

Beginning at a new iron pin at the intersection of the southeasterly right of way of Arlington Street and the northeasterly right of way of Keeler Street; thence along said southeasterly right of way of Arlington Street North 47° 20' 14" East 108.10 feet to a new iron pin; thence leaving said southeasterly right of way and heading South 42° 40' 00" East 230.25 feet to a new iron pin; thence South 46° 37' 04" West 48.93 feet to a new iron pin; thence along the northeasterly right of way of Keeler Street North 43° 38' 17" West 86.70 feet to a new iron pin; thence North 64° 28' 47" West 155.29 feet to the new iron pin at the point of beginning and containing 0.361 acres.

The above-described parcels are shown on map entitled Map 7 of S. Property of Cannon Holding Corporation, Job No. L-7131-2 by James T. Hill, Registered Land Surveyor, dated October, 1982.

# Rowan County Assessor's Office

## Multiple Parcel Identification

Tract/Lot 10 Parcel ID

MAP	S/M	PAR	S/P	U/IN	L/IN	C/C	PART	INT
016		384						51

Tract/Lot 11 Parcel ID

MAP	S/M	PAR	S/P	U/IN	L/IN	C/C	PART	INT
016		385						51

Tract/Lot 12 Parcel ID

MAP	S/M	PAR	S/P	U/IN	L/IN	C/C	PART	INT
016		386						51

Tract/Lot \_\_\_\_\_ Parcel ID

MAP	S/M	PAR	S/P	U/IN	L/IN	C/C	PART	INT
016		183						51

Tract/Lot \_\_\_\_\_ Parcel ID

MAP	S/M	PAR	S/P	U/IN	L/IN	C/C	PART	INT
016		387						51

Tract/Lot 32 Parcel ID

MAP	S/M	PAR	S/P	U/IN	L/IN	C/C	PART	INT
016		383						51

Tract/Lot \_\_\_\_\_ Parcel ID

MAP	S/M	PAR	S/P	U/IN	L/IN	C/C	PART	INT

Tract/Lot \_\_\_\_\_ Parcel ID

MAP	S/M	PAR	S/P	U/IN	L/IN	C/C	PART	INT

Tract/Lot \_\_\_\_\_ Parcel ID

MAP	S/M	PAR	S/P	U/IN	L/IN	C/C	PART	INT

Tract/Lot \_\_\_\_\_ Parcel ID

MAP	S/M	PAR	S/P	U/IN	L/IN	C/C	PART	INT

Tract/Lot \_\_\_\_\_ Parcel ID

MAP	S/M	PAR	S/P	U/IN	L/IN	C/C	PART	INT

Tract/Lot \_\_\_\_\_ Parcel ID

MAP	S/M	PAR	S/P	U/IN	L/IN	C/C	PART	INT

Tract/Lot \_\_\_\_\_ Parcel ID

MAP	S/M	PAR	S/P	U/IN	L/IN	C/C	PART	INT

Tract/Lot \_\_\_\_\_ Parcel ID

MAP	S/M	PAR	S/P	U/IN	L/IN	C/C	PART	INT

Tract/Lot \_\_\_\_\_ Parcel ID

MAP	S/M	PAR	S/P	U/IN	L/IN	C/C	PART	INT

5



DATE 3/06/07  
TIME 15:33:26  
USER RECTORG  
JFS PROPERTIES INC

ROWAN COUNTY, NC  
PROPERTY CARD  
FOR YEAR 2007

PARCEL# 016 183

PAGE 1  
PROG# AS2006

4470 CHAMBL DUNWDY RD STE 290

PARCEL ID.. 016 183  
LOCATION... N BOUNDARY ST  
DEED YEAR/BOOK/PAGE.. 2002 957 449  
LEGAL DESC:L1-16  
TOWNSHIP... 1 SALISBURY

PIN... 016 183

OWNER ID.. 6232323  
DISTRICT.. 101 SALISBURY-IN

ATLANTA

GA 30338--6229

NRHOOD... 16B NRHOOD 16B  
NH CLASS.. 001 TWP-SALISBURY MAP 001-071  
I-MANUFACTURING & IND M1-LIGHT INDUSTRIAL

DESCRIPTION SALISBURY COMMERCIALS  
MAINTAINED.. 1/20/2007 BY ROWLANDG VALUED.. 3/05/2007 BY ROWLANDG  
VISITED..... 4/29/2003 BY PREV PARCEL 0005243  
PARCEL STATUS... ACTIVE

ROUTING#..  
CATEGORY.. REAL-PER PROP - EXC RGVS

DEED BK/PAGE		SALE DATE	SALES INSTRUMENT	DISQUALIFIED	SALE AMOUNT	STAMP AMOUNT	DEED NAME
957	449	11/13/2002	SPECIAL WARRANT	OTHR/STP FOR PA	250,000	500.00	JFS PROPERTIES INC
15	0999		SALE-CONVERTED	QUALIFIED			

LAND SEGMENTS													
LND #	STRAT	LAND	LAND	LAND	LAND	DPT%	SHP%	LOC%	SIZE	OTH%	ADD	TOT	CURRENT
#	ZONE	CODE	TYPE/CODE	QTY	RATE						TOP%	ADJ	FMV
1	05	AC B1		12.000	26,000.00	.00	.00	100.00	.00	.00	.00	.00	312,000
TOTAL ACRES..				12.000									
				TOTAL LAND FMV.. 312,000									

MAIN FIN AREA.. 91,841.00 IMPROVEMENT # 1 MAJOR IMPR-M  
STRAT..... 05 ACT/EFF YR/AGE.. 1900 1950 57 VISITED.. 1/01/1981 BY  
DESCRIPT.... INDUSTRIAL MAINTAINED.. 2/23/2006 BY AMESB  
MAIN PERIM..... 1.00 MAIN GROUND SF.... 85,955.000

COMPONENT	TYPE/CODE/DESC	PCT	UNITS	RATE	STR#	STR%	SIZE	HGT%	PER%	CDS%	COST	%CMPL
AC 07	DOCK	100	3392.00	28.00			90.00				85,478	
AC 15	FRAME/METAL STORAGE	100	2304.00	30.00			90.00				62,208	
MA 25M	INDUSTRIAL	100	85955.00	36.00	1.06			100.00		100	3,094,380	
MA 25M	(UPPER FLOORS)	100	5886.00	36.00	1.06			100.00		100	211,896	
EW 01	BRICK	100	1.00	.00							0	
- HC 57	PACKAGED HEAT/COOL	100	91841.00	2.85							261,746	
- PL C	COMMERCIAL PLUMBING/100		14.00	1000.00							14,000	
- SP 02	SPRINKLER SYSTEM - D100		91841.00	1.65							151,537	

RCN...		PCT COMPLETE	100	x		3,881,246	
QUAL.. QG	C+-	QUALITY C+-	100.00	x		3,881,246	
DEPR.. 50		COMMERCIAL MAXIMUM D	82.00				
COND.. C3	00006	COMM DEPR CONDITION	x100.00			3,182,620	
FUNC.. F03		USE - DESIGN - LAYOU	85.00	-		593,832	
ECON.. ECO		ECONOMIC ADJUSTMENT	50.00	-		52,397	
--FMV... MK	16B	MARKET ADJ	101.00	x		3,828,849	T
						52,920	



10780593

DATE 3/06/07  
 TIME 15:33:26  
 USER RECTORGD  
 JFS PROPERTIES INC

ROWAN COUNTY, NC  
 PROPERTY CARD  
 FOR YEAR 2007

PARCEL# 016 183

PAGE 2  
 PROG# AS2006

PARCEL ID.. 016 183

PIN... 016 183

MAIN FIN AREA.. 13,280.00		IMPROVEMENT # 2 MAJOR IMPR-M		VISITED.. 1/01/1981 BY							
STRAT..... 05		ACT/EFF YR/AGE.. 1900 1950 57		MAINTAINED.. 2/23/2006 BY AMESB							
MAIN PERIM..... 540.00		DESCRIPT.... INDUSTRIAL									
MAIN GROUND SF.... 6,640.000											
COMPONENT TYPE/CODE/DESC	PCT	UNITS	RATE	STR#	STR%	SIZE	HGT%	PER%	CDS%	COST	%CMPL
MA 25M INDUSTRIAL	100	6640.00	36.00	2.00		104.00	100.00		100	248,601	
MA 25M (UPPER FLOORS)	100	6640.00	36.00	2.00		104.00	100.00		100	248,601	
EW 01 BRICK	100	540.00	.00							0	
- HC 57 PACKAGED HEAT/COOL	100	13280.00	2.85							37,848	
- PL C COMMERCIAL PLUMBING/100		5.00	1000.00							5,000	
<hr/>											
RCN...		PCT COMPLETE				100	x			540,051	
QUAL.. QG C+-		QUALITY C+-				100.00	x			540,051	
DEPR.. 50		COMMERCIAL MAXIMUM D	82.00								
COND.. C3 00006		COMM DEPR CONDITION	x100.00			82.00	-		442,841		
FUNC.. F03		USE - DESIGN - LAYOU				85.00	-		82,628		
ECON.. ECO		ECONOMIC ADJUSTMENT				50.00	-		7,291		
--FMV... MK 16B		MARKET ADJ				101.00	x			532,760	T
										7,363	

DATE 3/06/07  
TIME 15:33:26  
USER RECTORGD  
JFS PROPERTIES INC

ROWAN COUNTY, NC  
PROPERTY CARD  
FOR YEAR 2007

PARCEL# 016 183

PAGE 3  
PROG# AS2006

PARCEL ID.. 016 183

PIN... 016 183

IMPROVEMENT # 2 MAJOR IMPR-M

[illegible]

\*INVALIDAL PLUMBING/

TRAVERSE

D	L	50.00	D	D	75.00	D	R	40.00	D	U	20.00	D	R	10.00	D	U	22.00
D	L	10.00	D	U	23.00	D	R	10.00	D	U	10.00	D	L	50.00	D	D	75.00
D	R	40.00	D	U	20.00	D	R	10.00	D	U	22.00	D	L	10.00	D	U	23.00
D	R	10.00	D	U	10.00												
-----			MA 25M	INDUSTRIAL		FLOOR:	1.00	-----		TRAVERSE	-----						
D	L	50.00	D	D	75.00	D	R	40.00	D	U	20.00	D	R	10.00	D	U	22.00
D	L	10.00	D	U	23.00	D	R	10.00	D	U	10.00						

```

.....
MAIN FIN AREA..      1,259.00

```

STRAT..... 05

MAIN PERIM.....	148.00
-----------------	--------

IMPROVEMENT # 3 MAJOR IMPR-M

ACT/EFF YR/AGE.. 1900 1954 53

DESCRIPT.... OFFICE

MAIN GROUND SF.....	1,259,000
---------------------	-----------

VISITED.. 1/01/1981 BY

MAINTAINED.. 2/23/2006 BY AMESB

[illegible]

DATE 3/06/07  
 TIME 15:33:26  
 USER RECTORGD  
 JFS PROPERTIES INC

ROWAN COUNTY, NC  
 PROPERTY CARD  
 FOR YEAR 2007

PARCEL# 016 183

PAGE 4  
 PROG# AS2006

PARCEL ID.. 016 183

PIN... 016 183

IMPROVEMENT # 3 MAJOR IMPR-M

COMPONENT	TYPE/CODE/DESC	PCT	UNITS	RATE	STR#	STR%	SIZE	HGT%	PER%	CDS%	COST	%CMPL
-----------	----------------	-----	-------	------	------	------	------	------	------	------	------	-------

RCN...			PCT COMPLETE				100	x			93,243	
QUAL..	QG C+-		QUALITY C+-				100.00	x			93,243	
DEPR..	50		COMMERCIAL MAXIMUM D				82.00	-		76,459		
FUNC..	F03		USE - DESIGN - LAYOU				50.00	-		8,392		
ECON..	ECO		ECONOMIC ADJUSTMENT				50.00	-		4,196	89,047	T
--FMV...	MK 16B		MARKET ADJ				101.00	x			4,237	



DATE 3/06/07  
 TIME 15:33:26  
 USER RECTORGD  
 JFS PROPERTIES INC

ROWAN COUNTY, NC  
 PROPERTY CARD  
 FOR YEAR 2007

PARCEL# 016 183

PAGE 5  
 PROG# AS2006

PARCEL ID.. 016 183

PIN... 016 183

IMPROVEMENT # 3 MAJOR IMPR-M

```

+---8---A+-----37-----B+
:
:
:
1      1
6      6
:
:
:
:
:
+2+    +2+
:
:
:
1      1
5      7
:
:
:
+---8---+
      +-----17-----+
          4
          :
          +-----18-----+
  
```

		AC 06		COVERED PORCH				TRAVERSE			
M L	37.00	D L	8.00	D D	16.00	D R	2.00	D D	15.00	D R	8.00
D U	15.00	D L	2.00	D U	16.00						
		MA 32W		OFFICE		FLOOR: 1.00		TRAVERSE			
D L	37.00	D D	16.00	D R	2.00	D D	17.00	D R	17.00	D D	4.00
D R	18.00	D U	37.00								

MAIN FIN AREA.. 90,464.00 IMPROVEMENT # 4 MAJOR IMPR-M  
 ACT/EFF YR/AGE.. 1900 1950 57 VISITED.. 1/01/1981 BY  
 STRAT..... 05 DESCRIPT.... INDUSTRIAL MAINTAINED.. 2/23/2006 BY AMESB  
 MAIN PERIM..... 176.00 MAIN GROUND SF..... 45,232.000

COMPONENT	TYPE/CODE/DESC	PCT	UNITS	RATE	STR#	STR%	SIZE%	HGT%	PER%	CDS%	COST	%CMPL
MA 25M	INDUSTRIAL	100	45232.00	36.00	2.00		93.00	100.00		92	1,393,190	
MA 25M	(UPPER FLOORS)	100	45232.00	36.00	2.00		93.00	100.00		92	1,393,190	
EW 01	BRICK	100	176.00	.00							0	
- HC 57	PACKAGED HEAT/COOL	100	90464.00	2.85							257,822	
- PL C	COMMERCIAL PLUMBING/100		8.00	1000.00							8,000	
- SP 02	SPRINKLER SYSTEM - D100		90464.00	1.65							149,265	

RCN...

PCT COMPLETE

100 x

3,201,469

DATE 3/06/07  
 TIME 15:33:26  
 USER RECTORGD  
 JFS PROPERTIES INC

ROWAN COUNTY, NC  
 PROPERTY CARD  
 FOR YEAR 2007

PARCEL# 016 183

PAGE 6  
 PROG# AS2006

PARCEL ID.. 016 183

PIN... 016 183

COMPONENT	TYPE/CODE/DESC	PCT	IMPROVEMENT #	4	MAJOR IMPR-M	STR#	STR%	SIZ%	HGT%	PER%	CDS%	COST	%CMPL
QUAL..	QG	C+-	QUALITY C+-					100.00	x			3,201,469	
DEPR..	50		COMMERCIAL MAXIMUM D	82.00									
COND..	C3	00006	COMM DEPR CONDITION	x100.00				82.00	-	2,625,203			
FUNC..	F03		USE - DESIGN - LAYOU					85.00	-	489,826			
ECON..	ECO		ECONOMIC ADJUSTMENT					50.00	-	43,220		3,158,249	T
--FMV...	MK	16B	MARKET ADJ					101.00	x			43,652	



DATE 3/06/07  
 TIME 15:33:26  
 USER RECTORGD  
 JFS PROPERTIES INC

ROWAN COUNTY, NC  
 PROPERTY CARD  
 FOR YEAR 2007

PARCEL# 016 183

PAGE 8  
 PROG# AS2006

PARCEL ID.. 016 183

PIN... 016 183

COMPONENT	TYPE/CODE/DESC	PCT	IMPROVEMENT #	5	MAJOR	IMPR-M	STR#	STR%	SIZE	HGT%	PER%	CDS%	COST	%CMPL
	ECON.. ECO								50.00	-		4,610	336,860	T
	--FMV... MK	16B							101.00	x			4,656	





DATE 3/06/07  
 TIME 15:33:26  
 USER RECTORGD  
 JFS PROPERTIES INC

ROWAN COUNTY, NC  
 PROPERTY CARD  
 FOR YEAR 2007

PARCEL# 016 183

PAGE 10  
 PROG# AS2006

PARCEL ID.. 016 183

PIN... 016 183

COMPONENT	TYPE/CODE/DESC	PCT	IMPROVEMENT #	6 MAJOR IMPR-M	STR#	STR%	SIZ%	HGT%	PER%	CDS%	COST	%CMPL
QUAL..	QG	C+-	QUALITY C+-				100.00	x			285,279	
DEPR..	50		AVERAGE LIFE 50 AGE	63.50								
COND..	C3	00013	COMM DEPR CONDITION	x100.00			63.50	-		181,152		
FUNC..	F03		USE - DESIGN - LAYOU				75.00	-		78,095		
ECON..	ECO		ECONOMIC ADJUSTMENT				50.00	-		13,016	272,263	T
--FMV...	MK	16B	MARKET ADJ				101.00	x			13,146	



DATE 3/06/07  
 TIME 15:33:26  
 USER RECTORGD  
 JFS PROPERTIES INC

ROWAN COUNTY, NC  
 PROPERTY CARD  
 FOR YEAR 2007

PARCEL# 016 183

PAGE 12  
 PROG# AS2006

PARCEL ID.. 016 183

PIN... 016 183

COMPONENT	TYPE/CODE/DESC	PCT	IMPROVEMENT #	7	MAJOR IMPR-M	STR#	STR%	SIZE	HGT%	PER%	CDS%	COST	%CMPL
ECON..	ECO		ECONOMIC ADJUSTMENT					50.00	-		8,800	382,310	T
--FMV...	MK 16B		MARKET ADJ					101.00	x			8,888	





DATE 3/06/07  
 TIME 15:33:26  
 USER RECTORGD  
 JFS PROPERTIES INC

ROWAN COUNTY, NC  
 PROPERTY CARD  
 FOR YEAR 2007

PARCEL# 016 183

PAGE 14  
 PROG# AS2006

PARCEL ID.. 016 183

PIN... 016 183

COMPONENT	TYPE/CODE/DESC	PCT	IMPROVEMENT #	8	MAJOR IMPR-M	STR#	STR%	SIZE%	HGT%	PER%	CDS%	COST	%CMPL
- SP 02	SPRINKLER SYSTEM - D100		4800.00	1.65								7,920	
	RCN...		PCT COMPLETE					100	x			198,272	
	QUAL.. QG	C+-	QUALITY C+-					100.00	x			198,272	
	DEPR.. 50		COMMERCIAL MAXIMUM D	82.00									
	COND.. C3	00006	COMM DEPR CONDITION	x100.00				82.00	-		162,583		
	FUNC.. F03		USE - DESIGN - LAYOU					75.00	-		26,766		
	ECON.. ECO		ECONOMIC ADJUSTMENT					50.00	-		4,461	193,810	T
--FMV...	MK	16B	MARKET ADJ					101.00	x			4,506	



DATE 3/06/07  
 TIME 15:33:26  
 USER RECTORGD  
 JFS PROPERTIES INC

ROWAN COUNTY, NC  
 PROPERTY CARD  
 FOR YEAR 2007

PARCEL# 016 183

PAGE 16  
 PROG# AS2006

PARCEL ID.. 016 183

PIN... 016 183

COMPONENT	TYPE/CODE/DESC	PCT	IMPROVEMENT #	9	MAJOR IMPR-M	STR#	STR%	SIZE	HGT%	PER%	CDS%	COST	%CMPL
	ECON.. ECO		ECONOMIC ADJUSTMENT					50.00	-		4,764	206,957	T
--FMV...	MK 16B		MARKET ADJ					101.00	x			4,811	





DATE 3/06/07

ROWAN COUNTY, NC

PARCEL# 016 183

PAGE 18

TIME 15:33:26

PROPERTY CARD

PROG# AS2006

USER RECTORGD

FOR YEAR 2007

JFS PROPERTIES INC

PARCEL ID.. 016 183

PIN... 016 183

COMPONENT	TYPE/CODE/DESC	PCT	IMPROVEMENT #	UNITS	RATE	STR#	STR%	SIZE	HGT%	PER%	CDS%	COST	%CMPL
ECON..	ECO		10					50.00	-		3,498	151,952	T
--FMV...	MK 16B							101.00	x			3,532	



DATE 3/06/07  
 TIME 15:33:26  
 USER RECTORGD  
 JFS PROPERTIES INC

ROWAN COUNTY, NC  
 PROPERTY CARD  
 FOR YEAR 2007

PARCEL# 016 183

PAGE 20  
 PROG# AS2006

PARCEL ID.. 016 183

PIN... 016 183

COMPONENT	TYPE/CODE/DESC	PCT	IMPROVEMENT #	11	MAJOR	IMPR-M	STR#	STR%	SIZE	HGT%	PER%	CDS%	COST	%CMPL
	ECON.. ECO		ECONOMIC ADJUSTMENT						50.00	-		4,764	206,957	T
--FMV...	MK 16B		MARKET ADJ						101.00	x			4,811	



DATE 3/06/07  
 TIME 15:33:26  
 USER RECTORGD  
 JFS PROPERTIES INC

ROWAN COUNTY, NC  
 PROPERTY CARD  
 FOR YEAR 2007

PARCEL# 016 183

PAGE 22  
 PROG# AS2006

PARCEL ID.. 016 183

PIN... 016 183

COMPONENT	TYPE/CODE/DESC	PCT	IMPROVEMENT #	12	MAJOR	IMPR-M	STR#	STR%	SIZ%	HGT%	PER%	CDS%	COST	%CMPL
	ECON.. ECO				ECONOMIC ADJUSTMENT				50.00	-		4,671	202,949	T
--FMV...	MK 16B				MARKET ADJ				101.00	x			4,718	





DATE 3/06/07  
TIME 15:33:26  
USER RECTORGD  
JFS PROPERTIES INC

ROWAN COUNTY, NC  
PROPERTY CARD  
FOR YEAR 2007

PARCEL# 016 183

PAGE 24  
PROG# AS2006

PARCEL ID.. 016 183

PIN... 016 183

CPS PROPERTIES INC														PARCEL 1277-110 103														FIN 117 010 103													
COMPONENT TYPE/CODE/DESC			PCT	IMPROVEMENT #		UNITS	RATE	STR#	STR%	SIZ%	HGT%	PER%	CDS%	COST	%CMPL																										
QUAL.. QG			100	NO ADJUSTMENT						100.00	x			0																											
DEPR.. 03				AVERAGE LIFE 40 MAX						75.00	-		0	0	T																										
				PCT COMPLETE						100																															
--FMV...														100																											
MAIN FIN AREA..				IMPROVEMENT # 15 MISC IMPR-Y																																					
STRAT..... 05				ACT/EFF YR/AGE.. 1920 1920 87																																					
COMPONENT TYPE/CODE/DESC			PCT	DESCRIPT.... STORAGE BUILDING																																					
MS 25 STORAGE BLDG				432.00																																					
QUAL.. QG			100	NO ADJUSTMENT						100.00	x			0																											
DEPR.. 03				AVERAGE LIFE 40 MAX						75.00	-		0	0	T																										
				PCT COMPLETE						100																															
--FMV...														100																											
MAIN FIN AREA..				IMPROVEMENT # 16 MISC IMPR-Y																																					
STRAT..... 05				ACT/EFF YR/AGE.. 1920 1920 87																																					
COMPONENT TYPE/CODE/DESC			PCT	DESCRIPT.... SHOP																																					
MS 11 SHOP				640.00																																					
QUAL.. QG			100	NO ADJUSTMENT						100.00	x			0																											
DEPR.. 03				AVERAGE LIFE 40 MAX						75.00	-		0	0	T																										
				PCT COMPLETE						100																															
--FMV...														100																											
MAIN FIN AREA..				IMPROVEMENT # 17 MISC IMPR-Y																																					
STRAT..... 05				ACT/EFF YR/AGE.. 1920 1920 87																																					
COMPONENT TYPE/CODE/DESC			PCT	DESCRIPT.... STORAGE BUILDING																																					
MS 25 STORAGE BLDG				768.00																																					
QUAL.. QG			100	NO ADJUSTMENT						100.00	x			0																											
DEPR.. 03				AVERAGE LIFE 40 MAX						75.00	-		0	0	T																										
				PCT COMPLETE						100																															
--FMV...														100																											
MAIN FIN AREA..				IMPROVEMENT # 18 MISC IMPR-Y																																					
STRAT..... 05				ACT/EFF YR/AGE.. 1920 1920 87																																					
COMPONENT TYPE/CODE/DESC			PCT	DESCRIPT.... STORAGE BUILDING																																					
MS 25 STORAGE BLDG				768.00																																					
QUAL.. QG			100	NO ADJUSTMENT						100.00	x			0																											
DEPR.. 03				AVERAGE LIFE 40 MAX						75.00	-		0	0	T																										
				PCT COMPLETE						100																															
--FMV...														100																											
MAIN FIN AREA..				IMPROVEMENT # 18 MISC IMPR-Y																																					
STRAT..... 05				ACT/EFF YR/AGE.. 1920 1920 87																																					
COMPONENT TYPE/CODE/DESC			PCT	DESCRIPT.... STORAGE BUILDING																																					
MS 25 STORAGE BLDG				768.00																																					
QUAL.. QG			100	NO ADJUSTMENT						100.00	x			0																											
DEPR.. 03				AVERAGE LIFE 40 MAX						75.00	-		0	0	T																										
				PCT COMPLETE						100																															
--FMV...														100																											
MAIN FIN AREA..				IMPROVEMENT # 18 MISC IMPR-Y																																					
STRAT..... 05				ACT/EFF YR/AGE.. 1920 1920 87																																					
COMPONENT TYPE/CODE/DESC			PCT	DESCRIPT.... STORAGE BUILDING																																					
MS 25 STORAGE BLDG				768.00																																					
QUAL.. QG			100	NO ADJUSTMENT						100.00	x			0																											
DEPR.. 03				AVERAGE LIFE 40 MAX						75.00	-		0	0	T																										
				PCT COMPLETE						100																															
--FMV...														100																											

DATE 3/06/07  
TIME 15:33:26  
USER RECTORG  
JFS PROPERTIES INC

ROWAN COUNTY, NC  
PROPERTY CARD  
FOR YEAR 2007

PARCEL# 016 183

PAGE 25  
PROG# AS2006

PARCEL ID.. 016 183

PIN... 016 183

COMPONENT TYPE/CODE/DESC	PCT	UNITS	RATE	STR#	STR%	SIZ%	HGT%	PER%	CDS%	COST	%CMPL
-----											
MS 25 STORAGE BLDG		192.00									
QUAL.. QG	100	NO ADJUSTMENT				100.00	x			0	
DEPR.. 03		AVERAGE LIFE 40 MAX				75.00	-		0	0	T
		PCT COMPLETE				100					
-----											
--FMV...											
-----											
IMPROVEMENT # 19 MISC IMPR-Y											
ACT/EFF YR/AGE.. 1920 1920 87											
VISITED.. 1/01/1981 BY											
MAINTAINED.. 2/23/2006 BY AMESB											
-----											
MAIN FIN AREA..											
STRAT..... 05											
COMPONENT TYPE/CODE/DESC	PCT	UNITS	RATE	STR#	STR%	SIZ%	HGT%	PER%	CDS%	COST	%CMPL
-----											
MS 30 GARAGE-DETACHED		180.00									
QUAL.. QG	100	NO ADJUSTMENT				100.00	x			0	
DEPR.. 03		AVERAGE LIFE 40 MAX				75.00	-		0	0	T
		PCT COMPLETE				100					
-----											
--FMV...											
-----											
IMPROVEMENT # 20 MISC IMPR-X											
ACT/EFF YR/AGE.. 1900 1900 107											
VISITED.. 1/01/1981 BY											
MAINTAINED.. 2/23/2006 BY AMESB											
-----											
MAIN FIN AREA..											
STRAT..... 05											
COMPONENT TYPE/CODE/DESC	PCT	UNITS	RATE	STR#	STR%	SIZ%	HGT%	PER%	CDS%	COST	%CMPL
-----											
MS 24 FENCE	100	2400.00	24.00							57,600	
RCN...		PCT COMPLETE				100	x			57,600	
QUAL.. QG	100	NO ADJUSTMENT				100.00	x			57,600	
DEPR.. 02		AVERAGE LIFE 25 MAX				80.00	-	46,080		46,080	T
										11,520	
-----											
--FMV...											
-----											
TOTAL PARCEL VALUES----	LAND /	OVR	IMPROVEMENTS /	OVR	TOTAL LAND/IMPROVE				2006 VALUE		
FMV.....	312,000		169,460		481,460				422,904		
APV.....	312,000		169,460		481,460				422,904		
-----											
COMMENTS -											

11.50AC MORE OR LESS  
-ADJ PER 2003 INF REVAL APPEAL  
\*\*03BER-NC  
03 STATE BOARD APPEAL-SETTLEMENT